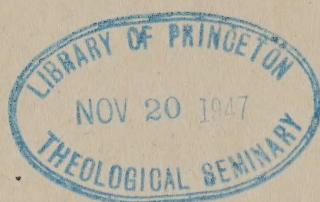


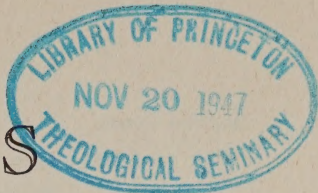
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MORALS IN POLITICS AND PROFESSIONS

A GUIDE FOR CATHOLICS IN PUBLIC LIFE



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A GUIDE FOR CATHOLICS IN
PUBLIC LIFE

BY THE

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INTRODUCTION

By "Catholics in public life," for whose guidance this book has been written, we mean those Catholics who occupy posts of authority and influence in the community. They should be leaders in the warfare that civilization must wage today if it would survive. The terrifying influences of evil that are so vehemently attacking modern society can be effectively opposed and overcome only by the grace and spiritual strength that are communicated by God to mankind through the Church of His Divine Son, the Catholic Church. And the instruments whereby this supernatural force is communicated are members of the laity as well as the clergy, particularly those whose position in the world confers on them special authority and influence over their fellow men.

Catholics receive abundant instructions on their duties as private individuals. Sermons, particularly on the occasion of missions and retreats, describe in detail the obligations incumbent on the members of the Church in their private lives. There are books and pamphlets in great number on the same subject. But the means whereby the lay Catholic occupying some position of public responsibility can learn his specific obligations are not so readily available. What is the Catholic legislator expected to do when confronted with a proposed measure to tax church property? What should a Catholic judge do when a divorce case is brought to him for adjudication? What course of action should a Catholic police officer follow if he is told to "shoot to kill" any malefactor he discovers in the act of robbery? What should a Catholic school teacher do if she is expected to read daily a portion of the Protestant Bible? Such questions as these frequently arise, and those confronted by these problems may find it difficult to obtain a clear and definite answer.

This book is an attempt to solve problems of this nature. The greater portion is devoted to the ethical obligations of those holding civil office by election or appointment. Great stress is placed on their duty of practicing honesty—a virtue sadly lacking in many public officials at the present day. The remainder of the book is a study of the moral problems of professional persons who hold posts of responsibility in the community, whose influence may do much good or much harm to their fellow citizens—the doctor, the social worker, etc. It has been the author's purpose, not only to propose a solution to the various questions considered, but also, as far as possible, to present the reason for his decision.

This book is intended not only for the benefit of those who hold the positions which are studied, but also for the use of priests who have the spiritual guidance of such Catholics, especially pastors and confessors. Unfortunately, the standard textbooks of Moral Theology provide only a meager treatment of the particular problems of the persons in question; consequently, priests look for more complete studies on this matter. It is hoped that this book will prove a genuine contribution to the science of Moral Theology in the particular field with which it is concerned.

Most of the chapters of this book appeared in the form of articles in *The American Ecclesiastical Review* in the course of the years 1944-1945, and the author takes this occasion to express his gratitude to the management of that periodical for the permission to reprint them in book form. He also thanks those who assisted him in the preparation of the book by their counsel and suggestions, particularly his confreres of Holy Redeemer College, Washington, D. C., and his professorial colleagues of the School of Sacred Theology at The Catholic University of America.

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CHAPTER I

THE CATHOLIC IN POLITICAL OFFICE

The number of Catholics occupying high political positions in the United States, such as governors, senators, supreme court justices, and members of the presidential cabinet, is considerably less than the number we should have if Catholics had a representation commensurate with their proportion of the population. In lower officialdom the proportion is greater, though even in this sphere, if the entire country be considered, Catholics are apparently far below their full share. Certainly, one of the reasons for this condition is bigotry, which influences many electors, and which is the more pronounced, the higher the office at stake. No Catholic, however capable he might be, could be elected to the presidency of our land at the present day. In certain sections no public office, even the lowest, could be won by a Catholic, in view of the prevailing opposition to everything Catholic.

However, bigotry is not the sole cause of this state of affairs. Another reason is the fact that not infrequently there are no Catholics endowed with the necessary qualifications available for an electoral office. When such a condition exists, we cannot in justice raise the charge of bigotry, for the fault is on our own side.

Three qualifications are necessary to make a man a suitable candidate for a position of civil authority—the requisite knowledge, moral integrity, and the willingness to accept the

office. Unfortunately, too many political candidates nowadays (some of them Catholics and some of them non-Catholics) possess only the third of these requirements.

We have excellent *a priori* arguments why Catholics should be most likely to possess these qualifications. In the moral and social teachings of his Church the Catholic finds clear and logical principles dealing with the constitution of civil society, the relations between citizens and rulers, the obligations of those who govern, etc. The knowledge necessary for a competent public official is available to every intelligent Catholic. For example, he has the help of the papal Encyclicals, with their lucid exposition of political and social questions. For the development of moral integrity the Catholic has the high ideals of the Christian life, constantly presented to him by his Church, and the abundant supernatural aids of the sacraments and the Holy Sacrifice of the Mass. And, as an incentive to accept public office willingly, supposing he possesses the other two qualifications, he has the encouragement of his Church, reminding him that it is an act of sublime Christian virtue for a citizen to dedicate his services to the welfare of his fellow citizens out of a supernatural motive.

SCARCITY OF GOOD CATHOLIC OFFICIALS

Yet, despite this plausible *a priori* reasoning, we must admit that we have not enough American Catholics who possess all three of the aforesaid qualifications in such manner and measure that they will reflect credit on their religion in public life. As to the first condition, there is no doubt that many Catholics who either hold office or are anxious to secure a political position are not equipped with a clear and adequate

understanding of the teachings of their Church concerning political and social matters. If a questionnaire were sent to every Catholic governor, mayor, congressman, etc., in the United States, proposing such fundamental problems as: "Explain the source of civil authority. . . . What are the obligations imposed by distributive justice? . . . Under what circumstances may the government employ the right of eminent domain? . . . What are the conditions of a just war? . . . Why has a workingman a right to a living family wage? ", it is to be feared that many—if not the majority—of the answers would be very inadequate or even incorrect. Of course, a large proportion of our non-Catholic officeholders would likewise fail in such a test, but the fault would be greater on the part of Catholics because they have more and better opportunities of learning the principles in question than are available to those of other religious beliefs. And a knowledge of at least the basic principles of the natural law bearing on the problems of statesmanship is just as necessary for one occupying a post of authority and responsibility in public life as is a knowledge of the principles of medicine for a physician.

The lack of moral integrity on the part of some Catholics in political offices is a fact that cannot be denied. It is true, exaggerated statements are sometimes heard in this connection. According to some of those who are eager to vilify the Church, there is hardly an honest Catholic politician in the entire country. This is surely false. There are many Catholic officials who are irreproachable both in private and in public life. Furthermore, the charge that dishonesty is more common among Catholic officeholders than among those of other creeds is a gratuitous assertion that cannot be substantiated.

THE EVIL OF GRAFT

Nevertheless, the unpleasant fact must be faced that a number of Catholics in political life are habitually and gravely failing against the tenets of the law of God, as promulgated by their Church. Sometimes there is a brazen, almost open defiance of decency in their conduct. In some instances the vice is drunkenness or conjugal unfaithfulness; but more frequently the reprehensible factor is injustice in their conduct of public affairs. That type of dishonesty known as *graft* is a sin that is far too common among Catholic officeholders, and it provides a very effective weapon for those who are bent on discrediting the Church in the United States. Anti-Catholic speeches and writings abound with allusions to the politician who has grown fabulously wealthy through indubitably crooked methods, but who nonetheless professes to be a staunch Catholic, and perhaps is regularly receiving the sacraments.

It is no effective rebuttal to assert that many non-Catholic officials also are guilty of dishonest transactions. This fact is quite true; but it furnishes no adequate reply to the objection, since Catholics should be better than other people. For they alone possess the one true faith; they alone participate fully in the divinely established means of grace and holiness. Perhaps we can see a kind of implicit tribute to the Catholic Church in the vehement attack of our enemies on dishonest Catholic politicians, a grudging admission that these politicians fall far below the standards upheld by the organization to which they belong. But there is small comfort in this, when we realize that not a few of our coreligionists in public office are a disgrace to the Catholic Church.

Probably there are politicians of this type who defend the

methods by which they enrich themselves on the grounds that these are not opposed to strict justice. The question as to the sinfulness of various forms of graft will furnish the subject of subsequent chapters; but for the present it suffices to point out that commutative, or strict, justice is not the only virtue incumbent on civil rulers. Distributive and legal or social justice also impose obligations, and the violation of these virtues by persons in authority can constitute grave sin, even in cases where restitution is not involved.

Unfortunately, the third of the conditions enumerated above, willingness to serve in a public capacity, is lacking in many American Catholics who possess the other two requirements. The usual answer of men of this type, when urged to run for some electoral office, is: "No honest man can succeed in politics" or "Political life will make an honest man dishonest." These replies have, indeed, some foundation in fact; yet it must be remembered that we cannot expect any improvement in the situation as it is at present until we have enough capable and honest Catholics willing to essay a political career.

REMEDIES

What can American Catholics, particularly priests, do toward remedying the evils described above? The question is timely, for today our country needs statesmen of superior worth, such as can be developed most effectively in the Catholic Church. The following practical suggestions are offered.

First, courses in political science should be conducted in all Catholic colleges and universities. Needless to say, these courses should not be mere explanations of the way our government is conducted, such as are usually available in high

schools. They should offer an adequate exposition of the Catholic philosophy of government, with special emphasis on the principles of natural law bearing on the obligations of rulers and citizens, and with a thorough treatment of social questions of present-day importance.

An effort should be made to impart instruction of this nature to those already in office who have never had a formal training in political science. For example, the pastor of a Catholic mayor or congressman should not hesitate to urge this official to study the teachings of the Church relative to his obligations. An incentive toward this objective would be the occasional gift of a book or pamphlet treating of political or social questions from the Catholic standpoint. The priest might even find the official willing and anxious to receive a course of private instructions on these matters. Beyond doubt, there are many Catholics in civil positions who would be glad to know more about the teachings of the Church on the subjects with which they are dealing every day.

Sometimes it may be possible to form a study club of Catholics in political office for the purpose of discussing principles and problems pertinent to their profession. This would be especially feasible in a capital city, and a capable priest could conduct meetings of this kind with great profit to the members. An invitation should be extended also to non-Catholics. They can derive much benefit from the discussions, particularly in the matter of natural ethics. Furthermore, this procedure would allay any suspicions—which would doubtless arise in the minds of some on seeing Catholic political leaders gathering under the chairmanship of a priest—that there is an attempt to form a Catholic political party in our land. It is regrettable that many of our fellow citizens are

loath to believe us when we assure them that we have absolutely no desire to form anything like a Catholic bloc in the United States.

Second, all Catholics, both priests and laity, must make a determined effort to eliminate corruption from the political life of our country. Instructions on the duties of those in posts of civil authority should be given, both in catechism classes and in sermons. It is to be noted that the new Revision of the Baltimore Catechism contains a question regarding the chief duties of those who hold public office, and states that they are obliged "to be just to all in exercising their authority and to promote the general welfare."¹ Moreover, to the list of sins forbidden by the seventh commandment is now added "the accepting of bribes by public officials."² The priest who hears the confession of one in civil office must admonish him if he knows that he is negligent or dishonest in his duties, for, as Damen remarks: "It rarely happens that the ignorance is inculpable, or does not do harm to the citizens, or common detriment. Hence, if the confessor through fear omits this admonition, he lays on his own shoulders the future sins and errors which he dissimulates in the penitent. But if the confessor reasonably doubts whether penitents of this class fulfil their duty, he is bound to ask about it."³

Above all, the priest must avoid any action that might be construed as approval or condonation of dishonest political methods. Thus, if an officeholder, known to be enriching himself at the expense of the public, is invited to speak at a communion breakfast or to act as sponsor at Confirmation, the parishioners are liable to get the idea that his disreputable activities are quite condonable by Catholic moral standards. Or, if they know this cannot be, they will be gravely scandal-

ized by the honor given to such an individual by a priest. In either case, there is great harm to religion. It is not easy in every case for a priest to take a firm stand against a politician of this type. Perhaps he has been very generous to the church or to the priest himself. The words of St. Alphonsus, dealing with the obligations of pastors, are worthy of consideration: "Pastors are bound, not only to correct the delinquent, but also to see to it that their parishioners fulfil their duty." ⁴ The Code of Canon Law also enumerates among the pastor's obligations the prudent correction of the erring. ⁵ All things considered, it is wiser for a priest not to put himself under any obligations to a civil official who is even suspected of unethical transactions or of sinful conduct.

Finally, priests and experienced public officials may occasionally find it opportune to encourage young Catholics, endowed with the requisite knowledge and integrity, to embrace a political career. The impression that an honest man cannot succeed in politics should not be allowed to influence such men to the degree of deterring them from a field of activity for which they are competent and in which they could do much for the welfare of the nation. At times, at least, an honest man succeeds in winning an election, even though he has not the support of the political machine.

Today, and in the years immediately before us, the United States needs capable and virtuous civil officials. Many difficult problems confront our nation, both at home and in our international relations. No one is better adapted to solve these problems as the representative of the people than the Catholic familiar with the teachings of the Church on civil government and on the duties of those who administer it, and at the same time deeply conscious of his obligation to obey

the laws of God as promulgated by the Catholic Church, especially the obligation to labor faithfully for the good of his country. Catholics should pray that God may send us many public officials of this type.

NOTES TO CHAPTER I

¹ *A Catechism of Christian Doctrine*. Revised edition of the Baltimore Catechism No. 2 (Paterson, N. J.: St. Anthony Guild Press, 1941), q. 249.

² *Ibid.*, q. 261.

³ J. Aertnys, C. SS. R. and C. Damen, C. SS. R., *Theologia Moralis* (13th. ed.; Turin, Rome: Marietti, 1939), II, n. 439, p. 297.

⁴ St. Alphonsus, *Theologia Moralis*, L. III, n. 360 (ed. L. Gaudé, C. SS. R., [Rome: Vatican Press, 1905], I, p. 617).

⁵ *Codex Juris Canonici*, Can. 467.

CHAPTER II

THE CATHOLIC LEGISLATOR

The legislators of our country, whether federal or state, occupy a very responsible and very difficult position; and in the course of the next few years their tasks will undoubtedly become more important and more onerous. They will be required to make decisions and pass legislation on matters of vital consequence to the well-being of the United States and, in some instances, on problems relevant to the peace and happiness of the entire human race. There was never a time in the history of our country when we stood in greater need of capable and conscientious lawmakers than we do at the present day.

DUTIES OF LAWMAKERS

The legislator must realize that the primary consideration that should determine whether he will vote for or against a certain measure is the common good of state or country or of mankind as a whole. When personal friendship or selfish ambition or loyalty to the "party" is allowed to become the determining factor, then the legislator is unfaithful to his duty. He is guilty of a form of treason. The extent of the harm that can be done to state or country by legislators who vote for measures which they know will be to the social or financial detriment of the people but who, notwithstanding, are willing to subordinate the common welfare to personal or political motives, is appalling. The legislator should realize that by casting his vote for an unjust proposal he not only

commits a sin but may also become liable in conscience to the obligation of making restitution. Thus, if he is an effective participant in the passing of a legislative enactment which will involve an unjustifiable expenditure of public funds, he incurs the duty of making up this deficit, or at least his share. If he is responsible for the appointment to public office of a person incapable of fulfilling the duties expected of him, again he is bound to make restitution to the public treasury for the damage resulting from the incompetency of the appointee.¹

The Catholic legislator is aided in making decisions and in passing legislative measures by the definite and comprehensive norms of right and wrong proposed by his Church. But correlative to this advantage is the obligation to regulate his official conduct by the unchanging principles of morality, and not according to the flexible standards of expediency which are unhesitatingly accepted as the only practical rule of political life by many statesmen of our day. The Catholic in public office must remember that, according to the teaching of the Catholic Church, he must one day render to God an account of his official, as well as of his private, conduct. Of him will be demanded an account of his stewardship corresponding to the special enlightenment and guidance which he is privileged to possess as a member of the one true Church of Jesus Christ.

CATHOLIC LEGISLATORS HELPED BY CATHOLIC TEACHINGS

Strange and sad to say, some Catholic legislators are apparently beset with the fear that it may prove a handicap to their public career to allow their religious belief to influence their official activities. In their anxiety to avoid being charged with

favoritism toward the "Catholic side" of an issue, they will vote for the opposite side, or at least abstain from voting. Now, anyone who is sincerely convinced that the Catholic Church is protected and guided in its teaching office by the Spirit of God must realize that Catholic principles, properly applied, will necessarily promote the best interests of society. Moreover, the moral and social teachings of Catholicism can, in great part, be defended convincingly by natural reason, even independently of divine revelation as interpreted by the Church. The Catholic teachings on the inalienable rights of the individual, the claim of the workingman to a just salary, the right of a people to self-government, the need of some form of federation of nations, etc. — teachings which have been especially emphasized in the Encyclicals of recent Popes — have an intrinsic cogency that appeals to every intelligent and honest person, whatever his religious persuasion. And so, it is utterly absurd to claim that the Catholic legislator is manifesting a bias in favor of his own religion when he allows such teachings of his Church to influence his decision in matters of statesmanship. He is simply applying the principles of the natural law, principles of the soundest political wisdom, the observance of which affords the best safeguard of the vitality and the peace of any nation.

On the other hand, it must be remembered that the Catholics of the United States seek no special governmental favor for their Church. They accept unequivocally the American plan of granting equal rights to all religious organizations. Of course, Catholics are not so illogical as to believe that, *as far as God's law is concerned*, any religion has a real right to exist except the one true religion established by the Son of God for all mankind. But, *as far as civil legislation in the*

United States is concerned, Catholics agree that the most practical system is complete freedom for all denominations. And Catholic statesmen have no right to transgress this rule, even in a particular instance or in a small matter, by supporting legislation favorable to the Catholic Church which they would not support for any other religious denomination in the same circumstances. In a word, the Catholic Church in the United States demands no more than its civil right to receive from the government the same treatment that is accorded other religious bodies.

ADVICE FROM THE CLERGY

Legislators sometimes consult priests concerning the stand they should take on certain proposed measures. This is a perfectly lawful procedure, for any civil official has a right to seek the advice of a fellow citizen in regard to his official conduct. Even those in the highest political posts sometimes choose private citizens as their intimate counselors. But the priest who is thus consulted must be on his guard lest his advice take the form of dabbling in politics, against which the Third Council of Baltimore warned the Catholic clergy of our land.² The priest should confine his counsel to the presentation and the explanation of the ethical principles bearing on the legislator's duties and the exhortation that he be faithful to these duties. Indeed, this mode of participating in political affairs was recommended to priests by the Council of Baltimore immediately after it warned them not to interfere unduly in politics: "These admonitions, however, are not to be understood in the sense that they must be silent about the grave obligation by which the citizens are bound even in public matters, always and everywhere, to labor for

the greater good of religion and of the country, according to the dictate of conscience before God." ³

Accordingly, when consulted about a particular legislative problem, the priest should ordinarily give his advice in the form of general principles rather than of specific recommendations. For the average priest is not sufficiently conversant with the factual data to give a prudent decision on a particular legislative proposal. Thus, while the priest may explain to a legislator the moral principle that public funds should not be expended unless a proportionate public benefit can be expected, it would usually be rash for him to urge the legislator to vote for or against an appropriation of fifty million dollars for the construction of a certain dam, the feasibility of which is under discussion.

The Catholic Church teaches that those who exercise civil authority derive their power from God. This is the doctrine proclaimed by St. Paul, who says: "There exists no authority except from God, and those who exist have been appointed by God." ⁴ A legislator who is deeply impressed with this truth will appreciate the dignity of his position and the grave responsibility incumbent on him to conform all his official activities to what he believes to be the will of God. And when confronted with perplexing situations, especially on occasions when the common good of the citizens is at stake, he will seek guidance from God in fervent, humble prayer.

EVIL OF TOO MUCH LEGISLATION

It is very important for legislators to remember that excessive legislation is very harmful to the welfare of a nation. When the citizens are overburdened with laws, they acquire the habit of transgressing them as a normal thing, and the

final result is a neglect of all law. It is far better to have a small number of laws that are obeyed than a multiplicity of laws that are commonly violated or even derided.

Particularly in the United States must lawmakers avoid unnecessary legislation, for it is against the spirit of our country to place all manner of restrictions on the citizens. True, every law is a restriction of freedom; but in a land like ours, whose very soul is personal liberty, legal regulations should be limited to what is necessary for the maintenance of order and unity. Unfortunately, in recent years this principle has been forgotten by many of our legislators, and they have exhibited a marked tendency to pass laws unduly restricting personal conduct and infringing on traditional rights. Thus, many of our states have legislated that before marriage all persons shall submit to a physical examination, and those who are found to be suffering from a venereal disease shall be forbidden to marry. Now, one factor of this law is reasonable and commendable—the prescription that all shall be examined before marriage to the end that each of the parties shall know his or her physical condition as well as that of the other. For persons should not marry unless they are aware of any dangers to health that may result from their union. But the accessory element of this legislation, forbidding marriage to anyone found to be afflicted with a social disease, is an example of unnecessary and imprudent legislation. It is unnecessary, for in practice hardly any prospective spouse in sound health would wish to go through with the marriage after learning that the other party bears the germs of a serious and loathsome disease. Moreover, such legislation is imprudent, because it is a trend toward totalitarianism, the assumption by the state of the authority to regulate in detail

the lives of the citizens—all the more deplorable in this instance because the right to marry is one of the most fundamental rights of human nature. Finally, Catholic legislators should be aware that the Catholic Church claims the exclusive right to establish impediments for the marriage of baptized persons, so that it would be an encroachment on the part of the civil authority to tell baptized persons whether or not they may marry.⁵ For marriage is a sacrament in the case of a baptized pair, and it pertains to the Church, not to the state, to legislate for the administration and the reception of the sacraments.

Another instance of the trend toward totalitarianism, the inclination of some legislators to restrict the liberty of the citizens, is the proposal to enforce military training for at least a year on all our young men—a measure that is being mooted while this is being written. If such a procedure is really necessary for the protection of our country, it can and should be introduced. But it would be a deplorable tragedy to pass this law without urgent need; for in a few years the system of obligatory military training would radically change the character of the United States. The sense of personal freedom which is so distinctively American would cease to animate our people, and would give place to those traits that are characteristic of a militaristic nation. Moreover, the realization of the grave moral dangers to which our youth would be subjected in the army or navy should give all legislators pause before voting for this measure.

Another consideration calculated to warn the Catholic lawmaker against the evil of excessive legislation is the realization that civil laws bind in conscience, so that the greater the number of laws, the more occasions of sin are given to the

citizens. It is true, some Catholic theologians believe that nowadays many (if not all) civil laws are merely penal—that is, not intended to bind in conscience but obliging the citizens only to the payment of the penalty if they are convicted of violation.⁶ However, the better view, which is more in accord with Catholic tradition, presents civil laws as binding under pain of sin—at least laws directed toward the safeguarding of morality and the common good.⁷

LEGISLATIVE PROBLEMS

To come to particular points of legislation: The Catholic legislator may not approve of any measure opposed to the natural law. An example of this would be legislation authorizing the establishment of birth-control clinics or the spreading of information helpful to contraception. The same principle would hold regarding proposed measures to prescribe or permit “eugenic” sterilization, or to legalize what is known as “therapeutic” abortion.⁸ In casting their votes against such proposals, Catholic legislators need have no fear that they are imposing distinctively Catholic tenets on their fellow citizens. They are simply condemning violations of the natural law, which is binding on all men without exception, irrespective of their religious beliefs.

Generally speaking, the same principle would apply to any legislation permitting people to obtain a divorce and marry again; for such a separation of husband and wife is a transgression of the natural law. However, an exception might be made in laying down this rule. In the near future our legislators may be confronted with a proposal to establish a uniform code of divorce laws throughout the country. In the supposition that such a code would definitely diminish the

number of divorces in our land, it would seem that a Catholic legislator might vote for it to be substituted for the present lax laws, on the principle that one may advocate the lesser of two moral evils, when one of the two is sure to ensue.

From time to time attempts are made in our country to tax church property. In the matter of taxing churches themselves, the Catholic legislator should have no hesitation as to the proper course of action. He should uphold the principle of tax exemption for all buildings used primarily as places of worship. There can be no reasonable objection to such a stand by a Catholic legislator on the ground that he is partial toward his own religion, since he would vote for the extension of this privilege to the churches of all denominations. Fortunately the general sentiment in this country favors the exemption from taxes of churches and of the ground on which they stand. Carl Zollmann says, in reference to the rise of tax exemption statutes in this country: "The practice of exempting church property was universally considered to be proper, and was so entirely in accord with the public sentiment that it universally prevailed."⁹ Moreover, as regards the concession of tax exemption to parochial schools, the general tendency of our people to favor educational institutions, even though they are not public schools in the commonly accepted sense, usually smooths over all difficulties for the Catholic legislator.

A more difficult question presents itself in the matter of legislation imposing taxes on property owned by the Church but not used for distinctively religious or educational purposes, such as rectories, parish halls, playgrounds, etc. The Church does, indeed, teach that she has a right to immunity from civil authority in the possession and administration of all such

property. But, in the actual application of this doctrine, even in Catholic countries, the Church waives her right in great measure. In the words of Dr. Ottaviani, an outstanding authority in Canon Law: "In practice a very moderate immunity is urged and prevails regarding goods which are properly called ecclesiastical. While the Church claims full immunity for those things which directly and immediately serve for divine worship, she frequently relaxes to a very great extent the exercise of her right in respect to other things which only mediately tend toward divine worship." The same author then adds reasons why the Church tolerates the taxation of property not directly concerned with divine worship—the willingness of the Church to aid the state, the equity of subsidizing public works advantageous to ecclesiastical persons and property (such as roads and bridges), the avoidance of the hostility which would be directed against the Church by the laity if she demanded the privilege of immunity from taxes in the fullest measure.¹⁰

Accordingly, a Catholic legislator would be fully justified in approving the taxation of church property not immediately serving for divine worship, particularly if he felt that such a measure would be a protection against anti-clerical or anti-religious movements or against the sweeping rejection of all tax exemption of religious property. Needless to say, the Catholic legislator would favor the consistent application of either exemption or non-exemption to all church property, irrespective of the denomination to which it belongs, in the same circumstances.

LEGISLATION ON EDUCATIONAL MATTERS

Educational problems are frequently submitted to our legislative bodies; hence, every Catholic legislator should

be familiar with at least the basic ethical principles relating to education. He should know that by the natural law the primary right and duty to educate children belongs to their parents, so that any legislation compelling children to attend public schools against the will of their parents—provided the children receive an adequate education either at home or in some other institution—is a violation of the natural law. Moreover, in our land the Supreme Court has upheld the right of parents to send their children to parochial schools instead of to public schools.¹¹ However, despite this authoritative decision of our highest judiciary body, there are many of our citizens who are desirous of subordinating the elementary education of all children to governmental control, and legislators must be on their guard against this totalitarian movement.

As far as justice is concerned, the parochial schools of our country have a right to a share of the taxes collected for educational purposes. For Catholics contribute their portion of these taxes and should receive the benefit of them in the particular form of education they may choose for their children. However, since there might be grave inconveniences annexed to the distribution of these funds to parochial schools, such as the restriction by governmental regulation of religious instruction to a small portion of the class time, the bishops of the United States have never made an issue of this matter, and might even refuse assistance if it were offered to our parochial schools. But it is an entirely different matter when there is question of direct public service to the children who attend the parochial schools. It is one thing to spend money on denominational schools, and another thing to spend money on the children who attend these schools.

Such benefits as health supervision, medical care, bus transportation, free lunches, etc., should be available to all children of a community, irrespective of the particular school they attend, for these services are bestowed on the children, not on the schools they attend. To refuse such benefits to parochial-school children, on the ground that to grant them would be equivalent to subsidizing a religious denomination, is as absurd as it would be to prohibit parochial-school children from using the public roads to go to school, on the plea that this is aid to the denomination that conducts the schools.

NEED OF GOOD LEGISLATORS

The Catholic legislator should familiarize himself with the social teachings of his Church, particularly those expounded in recent papal Encyclicals. Our country needs to be guided by the wise, just principles of traditional Christian ethics; and the clearest and most detailed explanation of these principles is found in the Church's teachings. In the crucial years before us these teachings offer the best solution to the vexing and complex problems that our public officials are sure to encounter.

The Catholic legislator must be prepared to meet opposition and suspicion from some of his fellow citizens who still labor under the old-fashioned delusion that a man cannot be at the same time a devout Catholic and a loyal American. But this should not sway him from the path of duty. It is tragic when a Catholic statesman, because he fears criticism or loss of favor, acts against principles which he knows to be true. The type of Catholic legislator we need is the man who consistently directs his official activities by the unchangeable principles of right and wrong which the Church has pro-

claimed for centuries. Under the guidance of such men the freedom of our people will be most securely maintained and the prosperity of our land, both material and spiritual, will be most effectively guaranteed.

NOTES TO CHAPTER II

¹ These principles will be developed more fully in Chapters VI and VII.

² *Acta et Decreta Concilii Plenarii Baltimorensis Tertii* (Baltimore: J. Murphy, 1886), n. 83, pp. 44-45.

³ *Ibid.* Cf. P. Guilday, *A History of the Councils of Baltimore* (New York: Macmillan, 1932), p. 234.

⁴ *Rom.* 13 : 1.

⁵ *Codex Juris Canonici*, Can. 1038, 2.

⁶ H. Davis, S. J., *Moral and Pastoral Theology* (3rd. ed.; New York: Sheed and Ward, 1938), I, 164.

⁷ Cf. B. Merkelbach, O. P., *Summa Theologiae Moralis* (3rd ed.; Paris: Desclée, 1938), I, n. 287, pp. 257-59.

⁸ We are referring to operations which involve a direct killing of the fetus, as will be explained in Chapter X.

⁹ C. Zollmann, *American Church Law* (St. Paul: West Publishing Co., 1933), p. 329.

¹⁰ A. Ottaviani, *Institutiones Iuris Publici Ecclesiastici* (2nd. ed.; Vatican Press, 1935), I, n. 206, pp. 431-33.

¹¹ *United States Supreme Court Decision in the Oregon School Case* (June 1, 1925): "The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public school teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right coupled with the high duty to recognize and prepare him for additional duties."

CHAPTER III

THE CATHOLIC JUDGE

A civil judge, whether his competency be federal, state, or municipal, occupies a position of great dignity and responsibility. On his judgments depend the property, liberty, and sometimes even the lives of his fellow citizens. No department of government stands in greater need of wisdom and integrity on the part of its incumbents than the judiciary. Even when the legislative and executive branches are permeated with incompetency and corruption, the welfare of the citizens is safeguarded in great measure if the judges as a whole are capable and virtuous men. No one should dare aspire to a judgeship if he realizes that he lacks the intellectual or moral qualifications for this high office. The words of the son of Sirach are as timely today as when they were first penned by the inspired writer: "Seek not to be made a judge unless thou have strength enough to extirpate iniquities."¹

The people of the United States, in more than a century and a half of national existence, have been fortunate, generally speaking, in the type of men who have held the post of judge. Proved cases of deliberate injustice and fraud on the part of the judiciary have been comparatively few, and our citizens have good reason to feel that they have a good chance of just and equitable treatment when they appear in court, either in a civil case or on a criminal charge. However, since there is an unmistakable tendency in our land today to

reject all objective standards of morality, it is very important that those who fulfil the judicial function be frequently reminded of the unchangeable principles of divine law relative to their official conduct. Judges who are members of the Catholic Church have the benefit of a considerable body of definite conclusions, commonly admitted by theologians, concerning the duties of the members of the judiciary. These teachings, with their particular applications to conditions prevailing in our country, should be known to Catholic judges. Surely there is an obligation incumbent on any priest having the spiritual care of a judge, whether as pastor or as confessor, to see to it that the judge knows exactly what the Catholic Church teaches regarding the duties connected with his position.

HONESTY REQUIRED IN A JUDGE

Of course, the basic obligation of a judge is to render a decision or a sentence conformable to the facts presented in testimony. It is important for every one called on to pass judgment on his fellow men to realize that it is not easy to be perfectly objective. The man who boasts that he has no difficulty in being impartial is generally quite a biased individual. To be a just judge a real effort must be made; every inclination to prejudice must be honestly acknowledged and effectively stifled.

A judge who has been elected to office by popular vote must be especially careful not to show special favor to the group or to the individuals responsible for his election. It is indeed a mooted question which of our two systems produces better judges, executive appointment or popular election. On this subject William Bennet Munro makes this comment:

It is commonly assumed by reformers, but it is by no means certain, that the state judiciary would be notably improved if we were to abandon the practice of electing judges and provide for their appointment by the governor in all cases. But governors, be it remembered, are politicians of high degree. They work hand in hand with the party organization, and their appointing power is generally influenced by a desire to help it. . . . The plan of having the governor appoint judges for life has functioned admirably in a few states. It has put their courts on a high plane of competence and non-partisanship. Outsiders point to this as an example of what other states might secure by adopting the same plan of selection. But it does not follow. Such states as Massachusetts, Maine, and Connecticut have secured good judges by electing good governors. If the office of governor deteriorates, the judiciary will descend with it. These three states, however, have done no better than Wisconsin, Iowa, and Maryland, for example, where judges are chosen by popular vote.²

At any rate, any manifestation of favoritism because of political ties on the part of a Catholic judge brings discredit not only on himself but also on his religion. He above all others, as one possessing the true faith and abundant means of moral rectitude, should be in full conformity with the ideals proposed by the American Bar Association, in describing the qualities of a good judge:

He should not suffer his conduct to justify the impression that any person can improperly influence him or unduly enjoy his favor, or that he is affected by the kinship, rank, position or influence of any party or other person. He should not be swayed by partisan demands, public clamor or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism.³

Beyond doubt in our country the factor most likely to distort the process of justice in the civil courts is discrimination against the colored race. Catholic judges should set an example of perfect impartiality when officiating in a case in-

volving a Negro, for the unfortunate spirit of racial prejudice that is so pronounced in some sections of our country is emphatically both un-American and un-Christian.

In trials by jury the facts of the case and the credibility of the witnesses are supposed to be decided by the jury; the official task of the judge is to decide points of law. In reality, the attitude manifested by the judge, and particularly his charge to the jury, frequently exert a strong influence on the formation of their verdict. In the case of those charged with minor offences, such as drunkenness and petty larceny, the judge decides as regards both law and fact. In either case it is vitally important that the judge bear in mind the fundamental ethical tenet, resolutely defended by Catholic philosophers and theologians, that a person has a right to be held innocent until he is proved with certainty to be guilty. At times circumstantial evidence can be sufficiently strong to establish reasonable moral certainty of guilt, but when it remains in the sphere of the merely probable, it does not justify the decision that the accused has committed the crime with which he is charged. Moreover, it is the unanimous teaching of Catholic theologians that even in the event that a judge knows from some extrajudicial source that the defendant is guilty, he must decide in favor of acquittal if the evidence alleged in the trial is not sufficient to establish certain proof of guilt.⁴

In the event of a conviction, the nature and the measure of the sentence often lie within the discretionary power of the judge. This does not mean that he may choose arbitrarily to be lenient or severe, according to the mood of the moment. This disposition of law has been introduced chiefly in order that the judge may be empowered to select a form of sentence

best adapted to the amendment of the culprit. Accordingly, a judge must conscientiously examine all the facts of the case, with a view to this purpose of punishment, before passing sentence. Thus, two extremes can be avoided—the encouragement of crime by excessive leniency toward the unrepentant malefactor, and the crushing of aspirations toward improvement by excessive rigor toward one whose wrongdoing was due mainly to ignorance and unfavorable environments.

KNOWLEDGE REQUIRED IN A JUDGE

The will to perform his duties faithfully is not sufficient to make a man a good judge; adequate knowledge is also necessary. When confronted with a case involving complicated problems, it is the solemn obligation of the judge to make a thorough study of all the relevant principles and precedents. If, after a conscientious effort, the judge passes a decision which subsequent events prove to have been erroneous, he has at least the assurance that he has done no formal wrong. But if he neglects to give sufficient time and effort to the study of the case, he is guilty of culpable ignorance, and he is bound to make restitution to those who have suffered material loss because of his negligence. The thought of the great harm he might cause by such blameworthy laxity should induce every conscientious judge to familiarize himself with all the angles of the cases brought before him. Exactness of this kind will indeed limit considerably the time he might like to give to unofficial activities, but this is one of the normal demands of the office he holds. Like the priest and the doctor, the judge must be willing to sacrifice his personal interests to his professional duties. It is hard to see how one who is a mem-

ber of the judiciary — at least in the higher courts — can in conscience devote much time to amusements and social engagements.

Unnecessary delay in hearing cases can easily become gravely sinful. St. Alphonsus asserts: "A judge sins mortally by failing to expedite cases for a notable period of time without a just reason."⁵ And the sixth amendment to our Constitution prescribes that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial." At times, of course, the judge is not to blame for the delay of justice. In the words of Munro:

Certain it is that American state courts give the crook a better run for his money (when he has the money) than he would obtain before the tribunals of any other country. He can secure postponements, file exceptions, enter pleas in avoidance, challenge jurors endlessly, or secure a change of venue, or appeal, or get a stay of sentence, or give bail and jump it, or be let off on probation. It is not that the judges encourage this situation, or are in any considerable measure responsible for it. Their hands are tied. They are compelled to follow a procedure which is laid down for them. This procedure has been framed by lawyers in the interest of lawyers—not by judges in the interest of justice.⁶

According to Catholic theology, in certain instances a judge possesses the power to transfer private property from one individual to another by an exercise of civil jurisdiction directed to the common good. For example, when a person has done harm to another's property without any guilt in conscience he is not obliged by the natural law to make restitution. However, the other party may take the case to court and obtain a judgment entitling him to recompense for the damage, and in this event (presuming that the decision was based on facts which objectively established a claim), the

defendant is obliged out of commutative justice to pay the required amount. There are a number of such cases in which theologians recognize an obligation of restitution after the sentence of the judge which was not present beforehand. The basis of this doctrine is the undeniable fact that civil authority must at times have the right to supersede the right of private ownership, provided some form of title is possessed by another party, though not sufficient to give a complete claim by the basic rules of justice. Such authority is necessary for the maintenance of public order by inducing citizens to be careful of the property of others, by giving assurance of a clear title to property long held in tranquil and undoubting possession (as in prescription), etc. This power of the state is sometimes known as "the right of eminent domain," though in legal language this phrase has a more specific signification.

A judge should be familiar with the ethical basis of this power which he occasionally exercises in civil suits. He should clearly understand that this procedure is not based on the communistic idea that private property is directly and completely subject to the disposition of the government. It is an extraordinary process, applicable only in certain cases in which the individual citizen should reasonably be willing to yield a measure of his material possessions for the promotion of the common welfare. Hence, the judge must remember that he should exercise this authority with great circumspection and caution, lest by a highhanded mode of action he foster the idea that the state is all-powerful.

PROBLEMS OF THE CATHOLIC JUDGE

The conscientious Catholic judge is sometimes perplexed as to the lawfulness of accepting a case or rendering a decision

on a matter concerning which the Church has very definite teachings. The most common problem concerns divorce suits. The judge may indeed grant a divorce (apart from such particular circumstances as scandal, or a positive ecclesiastical prohibition) to a couple who are actually not married validly, though they have gone through a marriage ceremony recognized by civil law. Such, for example, is the case of Catholics who have attempted marriage before a non-Catholic clergyman or a civil magistrate. A person in such a situation, though not truly married, would run the risk of indictment for bigamy if he went through another marriage ceremony before the previous civil bond had been legally severed. Similarly, if a judge has sufficient assurance that a party seeking a divorce is entitled to a remarriage by virtue of the Pauline Privilege (the dissolution of a marriage contracted by two unbaptized persons, when one becomes a Catholic, certain other conditions being fulfilled) and is contemplating this step, he may pronounce a sentence of divorce, provided the required legal conditions are realized. The same holds true in reference to a *matrimonium ratum non consummatum* (a Christian marriage that was never consummated), which has already been dissolved or is about to be dissolved by ecclesiastical authority. Finally, if the judge is morally certain that neither of the parties will attempt remarriage, and that the divorce is being sought merely for the sake of certain civil effects, he may grant it, particularly in the case of Catholics who have obtained the consent of the Church authorities to have recourse to this measure.

However, what may a Catholic judge do in those cases—unfortunately quite frequent in our land—in which the marriage is apparently valid and there is good reason to believe

that in the event of a divorce one (or both) of the parties will attempt a new marriage? Some theologians — for example, Bucceroni ⁷—believe that the granting of a divorce in such cases is intrinsically wrong, and hence never justifiable under any circumstances. However, the more common view, which can be safely followed, holds that the act of the judge in pronouncing a divorce is merely an official declaration that the state regards the *civil* effects of the marriage as no longer existing. Such a declaration is in itself a morally indifferent action, which can be permitted, at least in certain circumstances. The Catholic judge knows that the marriage itself cannot be dissolved by the state, and in granting a divorce he has no intention of exempting the parties from anything more than the legal recognition of the effects of their marriage.

Nevertheless, when the judge foresees the probability or the certainty of an attempted remarriage, his act of granting the divorce is material cooperation toward this sin. Hence, according to the principles of cooperation, there must be a good reason for performing this act—a reason sufficiently weighty to justify the permitting of the evil effect. Such a reason would seem to be present if the judge were in danger of losing his office in the event that he refused to accept a divorce suit, or even if serious antagonism and loss of prestige ensued. But if, without any grave inconvenience, he can avoid a divorce case which will probably be the occasion for an invalid remarriage, he is bound to do so. This holds true for non-Catholic, as well as for Catholic, couples.

The Catholic judge should realize, too, that another difficulty is involved when he sits in judgment on a divorce suit of baptized persons. Matrimonial cases of the baptized belong properly and exclusively to the tribunal of the Catho-

lic Church.⁸ The Third Council of Baltimore commanded Catholics, as a matter of grave obligation, not to approach the civil court for the purpose of obtaining a separation *a thoro et mensa* (from bed and board) without first consulting the ecclesiastical authority.⁹ The manifest neglect of this prescription by Catholics would make it necessary for the judge to have a very good reason for accepting their case, even when he can be sure there will be no attempt at remarriage.

As a civil magistrate, a judge may officiate at marriages, according to the law of our country. When both parties are non-Catholics, and no impediment of divine or ecclesiastical law is in evidence, a Catholic judge may officiate without any hesitation. But what is to be said of his official participation in a marriage ceremony when he knows or gravely suspects that there is an obstacle to the valid contracting of the union? Such occasions arise particularly when one (at least) of the parties is a divorced person, or when Catholics are attempting a civil marriage, apart from the extraordinary cases in which they can marry validly without the presence of a priest.¹⁰ Ordinarily, a judge is at liberty to refuse his services to a couple desiring a marriage ceremony, and the Catholic judge must normally decline to officiate at a marriage which will certainly or very probably be invalid. However, in the event that such a refusal would involve him in very grave difficulties or complications, it would seem permissible for a Catholic judge to perform the civil marriage ceremony. Such is the opinion of Cardinal Gasparri, based on a particular decision of the Sacred Penitentiary, given on February 13, 1900. It is to be noted, however, that in the response it was prescribed that the official in question should publicly profess his faith in the Catholic doctrine of the unity and the indissolubility

of marriage, and should state that he regards his act as a civil ceremony at which he officiates through necessity, to avoid greater evils. Moreover, the admonition was given that he should warn the contracting parties, at least privately, of the enormity of their sin and of the invalidity of the marriage.¹¹

Cases relating to the vice of contraception might be brought before a Catholic judge. Thus, he might be called on to sit in judgment on a civil suit concerning the buying and selling of contraceptive devices. In a state where such a transaction is allowed by civil law, the judge could ordinarily render a decision based simply on the relevant factors of justice, since he would be cooperating only materially and remotely toward the subsequent sins of those who would use these devices. However, in those states which still ban the sale of contraceptives and the giving of birth control information every decent judge, whatever his religious principles, will strive to protect the law against the numerous subterfuges of the protagonists of "planned parenthood."¹²

The case is very different if a judge is called on to give a decision in favor of an action that is intrinsically wrong. Thus, in the years to come—particularly if we shall have on our hands a large number of persons physically and mentally incapacitated as a result of war—the advocates of euthanasia may succeed in legalizing "mercy killing." Of course, law or no law, a judge would never be allowed to approve or decree such an act of murder. Similarly, in those states which now prescribe or permit eugenic sterilization for certain types of defectives and criminals, no circumstances can justify a judge in giving a decision that the law should be put into operation. Such acts, even when performed under the direction of civil legislation, contain formal cooperation in a

grave transgression of the law of God. But a judge could commit a person to an institution, even though he foresees that sterilization will there be inflicted, if no other course is legally available—for example, if the person has committed a crime for which the law prescribes commitment to this institution.

What should a Catholic judge do if a cleric is brought before him for trial? The case might arise in which a priest is indicted for traffic violation, failure to meet the demands of a tradesman, or perhaps even some more serious charge. According to Church legislation, a cleric should not be summoned to civil court, in either a civil or a criminal case, unless permission has first been secured from the proper ecclesiastical superior.¹³ It may be that a custom contrary to this law is sufficiently established in our land, at least in regard to cases of minor importance, to permit a Catholic judge to proceed without having recourse to ecclesiastical authorities. In fact, the delay and the inconvenience that would usually be involved in this procedure would excuse him in cases of this nature.¹⁴ However, if a high ecclesiastical personage, such as a bishop, were cited before a Catholic judge, it would be advisable for the latter to seek the required sanction, if time permits. The same would be true if a cleric of lower rank were summoned before him on a very serious charge. Church law makes provision for the granting of the necessary permission, and the normal course would be for the judge to consult his pastor on the matter.

THE SIN OF BRIBERY

Of course, the acceptance of a bribe is a most despicable act on the part of a judge. If, in consideration of a gift, he

renders a decision in favor of the party that has justice on his side, he must nevertheless return the gift, because he has sold a verdict which he was already bound to render by virtue of his official position. If the bribe induces him to favor the side which is not in the right, he must restore to the injured party all that the latter lost as a result of the decision—though in this case the judge's obligation is secondary to that of the person who won the case unjustly. Theoretically, a judge might accept gifts from those whose cases he is trying without committing himself to any obligations, but in practice such a procedure is so likely to lead to injustice that it deserves severe condemnation.¹⁵ The American Bar Association presents this norm of conduct for the ideal judge: "He should not accept any presents or favors from litigants or from lawyers practicing before him or from others whose interests are likely to be submitted to him for judgment."¹⁶ (The subject of bribery will be discussed more fully in a subsequent chapter.)

It is indeed desirable that Catholics attain to the judiciary in our country, because they have the best means of knowing what is right and wrong according to the law of God. But it is to be hoped that those Catholics who reach this post of trust and responsibility will acquit themselves in such wise as to prove to their fellow citizens the logic and the sublimity of Catholic ethical teaching, and particularly of Catholic principles regarding the duties of a judge.

NOTES TO CHAPTER III

¹ *Ecclesiasticus*, 7 : 6.

² W. Munro, *The Government of the United States* (New York: Macmillan, 1931), p. 635.

³ "Canons of Judicial Ethics," nn. 13-14. Cf. *The Association of the Bar of the City of New York* (Year Book, 1941), p. 172.

⁴ T. Iorio, S. J., *Theologia Moralis* (6th ed.; Naples: M. D'Auria, 1939), II, n. 1039, p. 649.

⁵ St. Alphonsus, *Theologia Moralis*, L. IV, n. 196 (ed. L. Gaudé [Rome, 1907], II, 626).

⁶ W. Munro, *op. cit.*, p. 638.

⁷ J. Buceroni, S. J., *Institutiones Theologiae Moralis* (6th ed.; Rome, 1915), Vol. IV, n. 983.

⁸ *Codex Juris Canonici*, Can. 1960.

⁹ *Acta et Decreta Concilii Plenarii Baltimorensis Tertii* (Baltimore: John Murphy Co., 1886), n. 126, pp. 64-65.

¹⁰ *Codex Juris Canonici*, Can. 1098. According to this canon, when an authorized priest cannot be had by a Catholic couple desiring to be married, there are two exceptional cases in which they may contract marriage in the presence of only two witnesses (and a judge could lawfully officiate at such a ceremony): *First*, when one (or both) of the parties is in danger of death; *second*, when it can be foreseen prudently that a priest cannot be had for a month.

¹¹ P. Gasparri, *Tractatus Canonicus de Matrimonio* (Rome: Vatican Press, 1932), II, n. 1303, pp. 322-23.

¹² E. Schmiedler, O. S. B., *Twenty-five Years of Uncontrol* (Huntington, Indiana, 1943). Cf. Chapter IV, "Getting Around the Law."

¹³ *Codex Juris Canonici*, Can. 120.

¹⁴ J. Aertnys, C. SS. R. and C. Damen, C. SS. R., *Theologia Moralis* (13th. ed.; Turin, Rome, 1939), n. 1234, pp. 778-79.

¹⁵ *Ibid.*, I, n. 1233, pp. 777-78.

¹⁶ "Canons of Judicial Ethics," n. 32. Cf. *The Association of the Bar of the City of New York* (Year Book, 1941), p. 179.

CHAPTER IV

THE CATHOLIC SOLDIER OR SAILOR

The career of a military man has always been regarded by Catholic theologians and spiritual writers as fraught with moral dangers. Some of the statements of the early Fathers regarding the obstacles to salvation encountered by those who enlisted in the army of the Roman Empire, if taken literally, would give the impression that these Fathers considered the military profession as entirely irreconcilable with a Christian life. Tertullian depicts a single Christian soldier as steadfast to his religious principles in a camp, and contrasts him with the others "who had imagined that they could serve two masters."¹ Vehemently does the dour African writer denounce various features of military life:

Shall it be held lawful to make an occupation of the sword, when the Lord proclaims that he who uses the sword shall perish by the sword? And shall the son of peace take part in the battle, when it does not become him even to sue at law? And shall he apply the chain and the prison and the torture and the punishment, who is not the avenger even of his own wrongs? Shall he, forsooth, either keep watch-service for others more than for Christ, or shall he do it on the Lord's day, when he does not even do it for Christ Himself? And shall he keep guard before the temples which he has renounced? And shall he take a meal where the apostle has forbidden it? Shall he carry a flag hostile to Christ? Then how many other offences are involved in the performance of camp offices, which we must hold to involve a transgression of God's law, you may see by a slight survey.²

From other passages of the early writers, it is true, we learn that even in the first three centuries it was not considered absolutely wrong for a Christian to be a soldier. Thus, St. Basil, eulogizing the forty martyrs of Sebaste, says that even in the armies of pagan rulers there were many Christians.³ The condemnation of such service by the Fathers evidently meant, therefore, that the military profession was joined to many occasions of sin and could not be recommended in general to those who claimed to accept the lofty moral standards of Christianity. Even after the edict of Constantine, soldiers were still urged to profess idolatry by some commanders, as is evident from the twelfth canon of the Council of Nicaea, which decreed a severe penance on those who had returned to the army after being discharged from military service.⁴

It cannot be said that the lapse of time has substantially changed the attitude of the Church as to the special moral hazards of the soldier. Some of the older theologians even seemed to consider it an established fact that all soldiers lead a dissolute life. Thus, St. Alphonsus in his *Moral Theology* quotes without comment the opinion of Busembaum that it would not be a grave sin of detraction to relate of a soldier that he has a concubine, because such a revelation would not notably diminish the reputation which normally belongs to a soldier.⁵ Fortunately, conditions at the present time, at least as far as the men in the armed service of the United States are concerned, do not warrant so unqualified a judgment.

Whatever may be thought of the desirability of the military life for Catholics, we are today faced with the fact that there are many Catholics in the armed forces of our country, and that this condition will continue. The problem of universal

training is still pending; and it seems probable that at least a few months of such obligatory service for all young men will become a permanent policy of our country. In any event, the army and navy will surely be much larger than ever before; consequently, we can expect to have a considerable number of Catholics in the military and naval service.

Catholic soldiers and sailors should be familiar with the teachings of their Church relevant to the particular problems and difficulties which they are likely to encounter. Those Catholics especially who hold posts of authority in the army or the navy should be well instructed in the doctrinal and moral tenets of their religion which they are called on to apply in the performance of their professional activities. There is no branch of public employment which confers on its leaders greater responsibility and authority over the lives and actions of their subordinates than the military service; consequently, a Catholic officer in the army or navy is in a position to exercise an extraordinary influence for good on the men he commands. Conversely, the failure of such an officer to live up to his religious obligations can have deplorable moral consequences on the men he commands. And it is incumbent on the priests of our country—not only chaplains but all members of the clergy who may come in contact with military men—to be prepared to explain to them, clearly and logically, the norms of right and wrong which must regulate their professional activities if they are to be consistent with the principles of the religion they profess.

PROBLEMS OF RELIGIOUS WORSHIP

The chief problems facing the officers of our armed service can be grouped under three general headings — faith, sex

morality, and the ethics of warfare. Under the first heading comes especially the matter of communication and cooperation in non-Catholic religious worship. The officer has under his command men of various religious beliefs. On the one hand, he must avoid every form of discrimination for or against a soldier because of his religious affiliation. The Catholics of the United States are sincerely in favor of the policy of equal freedom in the practice of religion for all American citizens, whether in military or in civil life. This is undoubtedly the most feasible system for our country, with its multitude of religious denominations. Accordingly, the Catholic army or navy officer may not in any way hinder the religious activities of his men, whatever their creed, provided there is no interference involved with discipline and the reasonable demands of military duty. If the post chapel is intended for the use of Protestants and Jews as well as Catholics, he should see that it is available at convenient times for each of these denominations. If a group of soldiers of a particular sect, desirous of attending some form of service not conducted on the post, wish to go to a neighboring town for that purpose, he may—and ordinarily should—provide transportation and free time. To the non-Catholic chaplains under his jurisdiction he should extend the same courtesy and liberty of action that he grants to the chaplains of his own denomination. This method of procedure on the part of a Catholic officer involves *material* cooperation toward a form of worship which he firmly believes to be erroneous, but in the armed forces of our country there are circumstances which always justify material cooperation of this type. (By *material cooperation* is meant an act which in itself is lawful, but in the particular circumstances helps toward the forbidden act of another.)

On the other hand, the Catholic soldier or sailor must refuse all *active* participation and *formal* cooperation in the public religious services of any non-Catholic denomination. (By *formal cooperation* is meant participation in the forbidden act of another.) For, according to the teachings of the Catholic Church, such services are at variance with the law of God, and consequently it is a grave sin to participate in them actively or to cooperate formally in their performance. Thus, it might happen that the only chaplain on a navy vessel is a Protestant. The commanding officer, a Catholic, could never lawfully take part in the Protestant services conducted by this chaplain, by singing the hymns, answering the prayers, etc. On special occasions, as a matter of official courtesy, he could assist reverently at such services without taking an active part—for example, at the funeral rites for a non-Catholic member of the crew. Indeed, in the event that only a non-Catholic chaplain is available for the burial of a Catholic, this chaplain could recite approved Catholic prayers and there would be no objection to an active participation by Catholics in this function. But it would be more advisable to have the services conducted by a Catholic officer or sailor.

A memorandum from the Secretary of War, given on August 21, 1942, directs that "commanders must render every practicable aid to chaplains to assist them in the performance of their duties." As was noted above, material cooperation on the part of a Catholic officer toward non-Catholic religious worship, by providing free time for the men, the use of a building or chapel, transportation, etc., is quite compatible with Catholic moral principles, because of the justifying reasons, which are always present. Furthermore, exhortations of a general nature to be faithful to the duties of a

religion, to serve God devoutly, to pray, etc., can be given by a Catholic to persons of any religious denomination, without any compromise of his religious tenets. But it is difficult to see how a Catholic could explicitly urge non-Catholics to participate in their particular denominational services (since such services are objectively based on false beliefs or at least are conducted in contravention of the authority of the one true Church), unless there is good reason to believe that otherwise they will entirely omit prayer and religious devotion and lead a totally irreligious life. In such a case the practice of a false religion might perhaps be urged as the lesser of two evils.

At any rate, a Catholic officer could not counsel or command a Catholic to take active part in a non-Catholic service. This point has been added because it has happened in our navy that certain sailors have been trained specially to be assistants to chaplains, in such wise that their duties include the function of playing the organ for the services of any chaplain, whatever his denomination, to whom they happen to be assigned. Now, it is unhesitatingly admitted by Catholic theologians, upheld by decisions of the Church, that the playing of the organ at a public non-Catholic religious service is an unlawful mode of participation.⁶ Hence, no Catholic commander could in conscience require a Catholic soldier or sailor to perform this function.

These are but a few of the problems connected with faith which a Catholic in a post of authority in the army or navy may have to meet. No reasons of expediency or diplomacy or personal advantage will ever justify him in violating the moral principles flowing from the basic tenet of his faith that Catholicism is the only true religion and the Catholic Church is the

only divinely approved religious organization on earth. An uncompromising attitude may involve the Catholic officer in difficult and embarrassing situations from time to time, but he should take advantage of such situations to explain the logic of his stand. The letter of our Military Ordinariate to the army and naval chaplains, sent out on August 14, 1943, contains a paragraph which can be addressed to all Catholics in the armed service: "To drive home your point, it may be necessary to explain to non-Catholics that all the millions of martyrs of the early ages of the Church were martyrs simply because they refused to participate in worship other than their own—and add that the Church, following the injunction of Christ Himself, expects her people to continue to give their lives for the sacred principle upon which liberty of conscience is based. The Church expects martyrs, and will always have them."

It is well to note that the frank and outspoken policy of our Military Ordinariate in presenting to army and navy officials the attitude which Catholics must in conscience follow in relation to non-Catholic religious beliefs and worship has done much toward smoothing the difficulties encountered in the service by our Catholic soldiers and sailors.

PROBLEMS OF SEX MORALITY

The second class of problems devolving on Catholic officers concerns the matter of sex morality. This has always been a source of trouble and difficulty in army life. Some armies have attempted to solve this problem by providing the soldiers with a supply of prostitutes. Even in our own army there have been (and perhaps still are) high ranking officers who believed that regulated prostitution is the most effective

method of keeping the men contented. It is to the credit of General John Pershing that when our armies landed in France in 1917 he took a firm stand against the system advocated by the French (particularly Clemenceau) and put houses of prostitution out of bounds for the American troops.⁷ A strenuous campaign for the continuance of this same uncompromising policy has been waged for years by Dr. Thomas Parran, Surgeon General of the United States Public Health Service. Consequently, repression of prostitution is the official policy of the United States army and navy at the present day. Thus, on March 18, 1942, the late Secretary of the Navy, Frank Knox, wrote to the governors of all the states: "I urge that you fully understand the navy's policy of repression in relation to the practice or toleration of prostitution in any form." Five days later, Secretary of War Henry L. Stimson, wrote to the governors in a similar vein: "I am responsible to the parents of these splendid young men in the army for seeing to it that they are not surrounded by a vicious and demoralizing environment. . . . This means closing segregated districts and ending the farce of periodic examinations of prostitutes, as well as intelligent police follow-up that keeps out the profiteers on vice."

To what extent this policy is actually upheld by the officers in service with our armed forces will not be discussed here.⁸ The point to be emphasized now is that a Catholic officer would never be justified in promoting or approving any form of prostitution, whether regulated or not, on the score that it helps to relieve the nervous strain of the soldiers or that it diminishes crimes of violence in the vicinity of the post, etc. For, in corroboration of the official stand of the army and navy, the Catholic officer is supported in his repressive

measures by the teachings of theologians and by the findings of recent social investigators. Although some of the older theologians regarded the toleration of commercialized vice as the lesser of two evils, this view is commonly rejected today. The claim that the toleration of prostitution diminishes rape is thus answered by the United States Public Health Service: "A careful study of those cities which abolished the red light district shows that in almost every case there is less rape after than before the line was closed."⁹ Accordingly, the Catholic military or naval officer has the duty of using his authority to repress prostitution within the sphere of his jurisdiction.

Despite the official attitude of our military officials toward organized vice, provisions are made for providing soldiers and sailors with contraceptive devices as a protection against venereal diseases. A War Department order, issued on February 23, 1942, at the instance of the Military Ordinate, forbids local commanders to oblige men to take protectives when they go on leave. However, there is still a general ruling that these articles shall be available to the soldiers. The question naturally presents itself: "May a Catholic officer or enlisted man concur toward the distribution of contraceptive instruments—for example, by ordering them for his post exchange, or by handing them to those who request them?" It is not an easy problem to solve, at least by an unqualified answer. It must be remembered that the cooperation described in this case is merely material, though quite proximate. The answer would seem to be that there is sufficient reason for a soldier or sailor to practice this type of cooperation, in the same circumstance in which a clerk in a drug store would be allowed to sell contraceptive instruments—if grave inconveniences would otherwise come to him.¹⁰

But, at any rate, a Catholic officer would never be allowed to tell his men—as is sometimes done by officers, even by those who vehemently condemn illicit sexual indulgence—"If, despite all that has been said to you, some of you decide to have relations with a prostitute, at least protect your health by a contraceptive device." For, such advice, though it suggests what is the lesser of two evils from the *physical* standpoint, is a recommendation of the graver of two *moral* evils. On the other hand, it would not be forbidden to give medical treatment to men if they had already exposed themselves to the danger of venereal infection.

PROBLEMS OF WAR ETHICS

The third class of moral problems encountered by military officers centers about the ethics of warfare. Even though we are not actually at war, those professionally committed to the act of war should know what is right or wrong in warfare. Sad to say, there are not a few military men nowadays who believe that any measures whatsoever that will defeat the enemy and secure a speedier and more decisive victory may be employed. No Catholic can admit such a principle. There are certain norms of right and wrong relative to the waging of war which must be maintained. For example, there is no justification for the slaying of a captured enemy soldier, at least after he has been disarmed and rendered incapable of doing any harm. This holds true, even if the captive belongs to a nation that has ruthlessly slaughtered our soldiers after capture or surrender. Two wrongs do not make a right. Again, the rules of civilized warfare, as well as the natural law, call for a distinction between enemy combatants and noncombatants. Only the former may be attacked and killed

directly; at most the killing of the latter may be permitted in a relatively small number in connection with a justifiable and important military operation, such as the destruction of an ammunition dump. To slay noncombatants (for example, housewives and children) in a designed attack on non-military objectives, such as a merely residential section, on the score that the consequent terror and discouragement may lead to the enemy's surrender, is simply murder.

It is true, in modern warfare it is difficult in many cases to decide on the correct application of principles. For example, may the workers in an ammunition factory be directly attacked on the grounds that their work brings them into the class of combatants? It would seem that this question could be answered in the affirmative. But what is to be said of those who work in the mines and the oil wells, the trainmen, the clerks in a war administration office, the telegraphers, etc.? These questions are not easy to answer, but it would seem that it is forbidden by the natural law to attack those who are only indirectly contributing toward the war effort, such as the classes just mentioned.

It must be confessed regretfully that some of the methods employed in the recent World War cannot be squared with the moral principles of the Catholic Church. For example, the so-called "obliteration bombing" was nothing else but the murder of noncombatants on a large scale.¹¹ The climax of this immoral method of warfare was reached when the atomic bomb was used on two residential cities of Japan. Even though these cities contained military objectives which could lawfully be the target of our air attacks, the dreadful havoc wrought concomitantly, the destruction or maiming of hundreds of thousands of innocent persons, has inflicted a

permanent blot of shame on the United States. Every intelligent person must perceive the inconsistency of our authorities in making an attempt to have the atomic bomb banned as a weapon of war after we ourselves employed it so cruelly to our own advantage.

If a means of waging war is intrinsically wrong, no soldier or sailor may employ it, no matter what may be the consequences to himself. Thus, an aviator commanded to drop his bombs on a merely residential section of a city must refuse, even though he will be court-martialed and shot. When a soldier is in doubt as to the morality of an action which he is required to perform, he should fulfill the command, on the principle that a lawful superior is to be obeyed unless it is certain that what he commands is sinful. However, despite the difficulty of determining right and wrong in many particular cases, military officials should bear in mind the general principle that the law of God takes precedence over expediency, and that if a method of warfare is wrong, it may not be employed, even though it might be conducive to a speedier and a more certain victory. Catholics especially must be mindful of this fundamental moral truth, for as the world is going now, the Catholic Church will soon be alone in upholding unchangeable standards of morality.

It is unfortunately true that not a few Catholics who attain to high posts in army and navy ranks become careless and indifferent in the practice of their faith. Their environments are not favorable to a fervent Catholic life, and often a mixed marriage adds to the difficulties. On the other hand, there are splendid examples of men who have risen to important positions in the military or naval profession and have nevertheless been models of solid Catholic piety, proving that it is

possible to be both a devout Catholic and a loyal and capable soldier or sailor. To this class belonged the late Admiral Daniel Callahan. And one of the important tasks of the clergy of our country, whether chaplains or parish priests, is to give our soldiers and sailors, whether officers or subordinates, the attention and the spiritual care necessary to provide them with the knowledge of their faith and to inspire them to put it consistently into practice.

NOTES TO CHAPTER IV

¹ Tertullian, *De Corona* i (PL 2, 76).

² *Ibid.*, xi (PL 2, 92).

³ Basil, *Homilia* 19, *In sanctos quadraginta martyres* (PG 31, 512). Cf. L. Miller, "Military Service in the Infant Church," *The Jurist*, 1 (1941), pp. 255-64.

⁴ These soldiers had enlisted in the army of Licinius, a champion of paganism. Cf. H. Schroeder, O. P., *Disciplinary Decrees of the General Councils* (St. Louis: Herder, 1937), p. 41.

⁵ St. Alphonsus, *Theologia Moralis*, L. III, n. 967 (ed. Gaudé [Rome, 1907], II, p. 358).

⁶ J. Bancroft, C. SS. R., *Communication in Religious Worship with Non-Catholics* (Washington: The Catholic University of America, 1943), pp. 72 ff.

⁷ T. Parran and R. Vonderlehr, *Plain Words about Venereal Disease* (New York: Reynal & Hitchcock, 1941), pp. 70 ff.

⁸ Since the close of the war the great rise in the venereal disease rate among our troops of occupation would seem to indicate a deplorable laxity in the enforcement of the official Army and Navy policy.

⁹ Cf. J. O'Brien, "Can We Crush Commercialized Vice?" *The Homiletic and Pastoral Review*, 39 (1938-1939), p. 33.

¹⁰ L. Wouters, C. SS. R., *Manuale Theologiae Moralis* (Bruges: Beyaert, 1932), I, n. 565, p. 396.

¹¹ J. Ford, S. J., "The Morality of Obliteration Bombing," *Theological Studies*, 5 (1944), pp. 261-309.

CHAPTER V

THE CATHOLIC ON THE POLICE FORCE

The police force is an essential requirement for the preservation and the well-being of society. In modern times it would be impossible for a large city to dispense with its corps of police for a single day without becoming a prey to hopeless confusion and disorder. Even the small community must have its sheriff and its constable. Nowadays the functions of the police are quite extensive and varied. Policemen are not merely the protectors of the citizenry against crime, deputed to bring to court those who violate the law. They are expected to perform many other functions in order to render safer and more expeditious the activities of their fellow-citizens—to direct traffic, to rescue people in danger of drowning or of asphyxiation, to provide bewildered travelers with information about buses and streetcars, to seek lost children, to give first aid in cases of accident, and to make themselves generally useful in the numerous other critical situations that the complexity of modern life can bring about.

A large proportion of the police in the United States, particularly in the northeastern section, are Catholics. This is true, not only of the ordinary patrolmen and minor officials but also of the higher officials, such as inspectors and commissioners. On the whole, Catholics have reason to be proud of their coreligionists who are members of the police force. Most of them are faithful to their obligations of attendance at

Mass and of reception of the sacraments. Their respect for the clergy is proverbial. Their names appear frequently among those cited for special bravery in the line of duty. As a class they are good family men, devoted to their wives and children, eager to give their boys and girls a good education. Many a priest in our country is justly proud of the fact that his father was a faithful and loyal member of the police force.

The moral theologians have very little to say about the specific duties of a policeman. The main reason for this would seem to be that until comparatively recent times the police force as a purely civil organization was unknown. The army maintained order, and even today the police organization of the Continent partakes largely of a military character. The English system, from which the American is copied, began only in 1828.¹ Consequently, the older theologians made no mention of the moral obligations of policemen as distinct from soldiers, and modern theologians have given little attention to the subject, even though there are a considerable number of moral problems relative to the functions of a policeman which should be discussed in the light of Catholic theological principles. This present chapter is an attempt to propose some of these problems and to suggest solutions.

GENERAL DUTIES OF THE CATHOLIC POLICEMAN

Like every practical Catholic, the policeman who is a member of the one true Church should view his place in life from the supernatural aspect. The Catholic policeman should regard his office, not merely as a job that gives him a comfortable and respectable livelihood, but primarily as a deputation to protect and to enforce the law of God, which

is reflected in every just civil law. He should realize, too, that his position provides him with many opportunities of practicing Christian charity. He should bear in mind that when he is rendering a service to his fellow men, even if it is only telling a person how to get to a certain street, he should be actuated with a supernatural motive, and thus become worthy of Our Lord's commendation: "Amen, I say to you as long as you did it for one of these, the least of my brethren, you did it for me." ² A policeman must be a vigorous and decisive man, but that does not mean that he must be harsh and rude. The Catholic policeman who is habitually rough and discourteous is certainly a poor example of the virtue of charity as taught by his Church. The policeman should be impressed with the dignity of an office which contributes so effectively toward the stability and the protection of society, and the Catholic can be best imbued with this spirit of appreciation by understanding and properly applying the doctrine of the Mystical Body of Christ. It may seem a far cry from this sublime doctrine to the task of keeping traffic moving smoothly at a busy street corner, but it is of the essence of practical Catholicity to supernaturalize even the most prosaic things of daily life.

The duties of a policeman involve the virtue of religion, for he has taken a solemn oath to fulfil them faithfully. Consequently, a grave and deliberate neglect of these duties adds to the mortal sin he commits against his fellow men a mortal sin directly against God, the infraction of a promissory oath. To take a practical example: The patrolman assigned to a section of a city where theft is common would be guilty of a grave neglect of duty if he were accustomed to pass several hours of his night shift in some secluded spot, soundly asleep. He would sin against both justice and religion, and the Cath-

olic patrolman would have to mention both these transgressions in confession. Even in the event that no harm is done while this gross neglect of duty is taking place, the policeman sins gravely in providing an opportunity for crime which he is obliged to prevent.

The duty which the policeman undertakes to support law and order puts him in a very different category from the ordinary employee in the matter of going on strike. The men employed by a private concern are justified in striking if this is the only means of redress against grave injustice. But it can hardly ever happen that policemen will be justified in going on strike. In this respect the police force is like the army—so necessary to the public welfare that even grave personal injustice must be borne for the sake of society, which would be seriously imperilled by a general walkout. In extreme cases, a strike of the police would be justifiable, as could be the revolt of an army—but such cases are very rare. The strike of the policemen of Paris during the final days of the German occupation in 1944 occasioned much rioting and disorder; but the members of the Parisian police force considered themselves justified in resorting to this measure on the grounds that it was a means of delivering their nation from the yoke of Nazi oppression.

It seems hardly necessary to state that under no circumstances may the policeman violate the law of God, even though the purpose may be the detection and the suppression of the most loathsome form of vice. Thus, it has happened that a detective, in order to have evidence that a certain establishment was a house of prostitution, patronized the place himself, sinning gravely against purity. Again, sometimes an agent of the law pretends to be in favor of some subversive organization and goes to the extent of perjuring himself, tak-

ing an oath of loyalty to its false principles, in order to gain information about its activities from within. Such means of protecting the law, being intrinsically wrong, are never permissible. There is an essential difference between methods of this kind and those which involve only the transgression of a civil law, such as the participation in gambling by a detective in order to secure the conviction of those who conduct the gambling den.

Drunkenness is a most pernicious vice in the case of a policeman. Even though he does not go to the extreme of complete intoxication, he may commit a serious sin if he drinks enough to render himself notably less capable of performing the duties expected of him while patrolling his beat—for example, of pursuing a thief, of shooting accurately, of stopping a runaway horse. Police officials cannot be blamed for being most severe on those members of the force who fail in this respect. An experienced police chaplain informed me that he strongly advises the patrolmen never to take a single drink of intoxicating liquor while on duty or during a period of four hours previously.

PROTECTION OF THE PUBLIC

The policeman is bound to endure danger in the performance of his duty, sometimes to the extent of risking his life. This is not merely an obligation of charity, as in the case of the private citizen—it is an obligation of justice. Thus, he must endeavor to arrest a dangerous criminal, even though it involves serious danger; he must try to kill a mad dog, even though he himself may be bitten by the frenzied animal. Certain qualifications must be made, however, in this connection. It is forbidden to risk one's life when the desired

effect can be obtained more safely in a less glamorous fashion, or when it is practically certain that the attempt cannot succeed. Thus, the policeman who endeavors to capture a band of criminals singlehanded, when he could just as well wait for a squad of patrolmen to assist him, may succeed and gain a reputation for bravery, but in reality he risked his own life unnecessarily and rendered the capture of the malefactors less probable merely for his own glorification. Similarly, to attempt a rescue that is morally impossible at the risk of one's own life bespeaks a lack of common sense, not a high degree of valor, whatever ideas the popular mind may entertain on this subject.

In the use of a weapon, particularly a revolver, the policeman must remember that it is not within his province to inflict punishment for crime. When he captures a criminal who has just attacked a frail girl or killed an innocent child, his feelings may prompt him to give the depraved man a beating that he will never forget—but that is not permitted either by civil or by divine law. He may employ only as much physical force as is necessary to subdue the lawbreaker and induce him to submit to arrest without resistance. Similarly, when the policeman is pursuing a criminal, he may not shoot with the idea of killing him if he can capture him by merely inflicting a wound. Only in the supposition that the particular criminal, if merely wounded, will probably try to kill the policeman, may the officer “shoot to kill.” However, if a murderer or a thief who has stolen a large sum of money can be apprehended only by inflicting a mortal wound, this is permissible. On the other hand, it would be wrong for a policeman to use a gun with the danger of inflicting death on a person trying to escape after a slight transgression, such as the violation of a minor traffic regulation or the breaking of a

window. The advantage to society of bringing such a person to justice is not sufficient to compensate for the jeopardizing of a human life.

Undoubtedly, the custom of the "third degree" prevails in some places, though it is impossible to say how general it is, because those who have recourse to this method are naturally loath to publish the fact. The "third degree" means that when the police have grave suspicions that a prisoner has been guilty of a crime, they inflict on him physical sufferings until they extort a confession or perhaps even induce him to reveal his accomplices. In a word, it is simply a modern version of the obsolete practice of torturing those accused of a crime. It might be well for those "enlightened and humane" persons who vehemently condemn the abuses of the Inquisition to direct their efforts toward eliminating this feature of present-day American life. At any rate, the "third degree," when it includes such measures as beating the accused or depriving him of food and drink and sleep until he is almost out of his mind, is absolutely wrong, and any Catholic policeman or detective who would participate in it should regard such participation as a matter of confession. One who attempts to justify himself on the score that the "third degree" often succeeds in wringing a confession from a guilty person (a statement which is undoubtedly true) is simply making use of the erroneous ethical principle that the end justifies the means. At most, it would be permissible to use a mild form of the "third degree" to the extent of questioning the prisoner for a long time so that eventually he would be caught in a contradiction or would be weary enough to admit real guilt, though not forced to make a false admission of guilt. But even such a course would be per-

mitted to the police only when they are practically certain that they have captured the real criminal.

OBLIGATIONS OF JUSTICE

There are many occasions in which a policeman is liable to violate justice, if he is not most conscientious in the performance of his duties. If, because of culpable neglect on his part, a citizen suffers some property loss, the policeman incurs the obligation of restitution as a negative cooperator. Thus, if a patrolman neglected to make his rounds properly on a certain night, and a robbery took place which would certainly not have occurred had he been faithful to his duty, he has the obligation of making restitution to the injured party, in the event that the stolen property is not restored and that there is no probability that it will be restored. This obligation falls on the policeman by virtue of the natural law even though no indictment or punishment accrues to him from the civil authority.

May a policeman accept gifts from the residents or shopkeepers of the district he patrols? As far as the law of God is concerned, and abstracting from any civil ordinances, he may do so if these donations are merely gifts *in the true sense of the term*. It is not unusual for merchants to give a courteous and vigilant patrolman a substantial gift from time to time, particularly at Christmas. But such gifts must not take on the nature of payment for service in such wise that those who do not contribute will not receive the service which the policeman is bound to render by reason of his office. If that is the tacit or express understanding between policeman and citizens, there would be an obligation of restoring the so-called gifts, which in such a case would be simply the fruits of unjust extortion.

Since he is bound to safeguard the law impartially, the policeman fails in his duty if he tolerates transgressions by certain individuals for personal reasons. If he allows his friends to keep their stores open beyond the closing hours while he enforces the city ordinances strictly in the case of others, he is doing wrong. The policeman who has reason to believe that a robbery was committed by the son of a fellow-policeman may be very reluctant to take action, but he must abstract from the ties of friendship and report the suspect or arrest him, as he would a complete stranger. The common good of society must supersede personal feelings. There are indeed occasions when a policeman may lawfully exercise a measure of discretionary authority in the matter of making an arrest, particularly in the case of a young person who has been guilty of some minor offence, such as stealing an orange from a fruit stand or breaking a window with a snowball. The officer may have reason to believe that the culprit will be more readily induced to amend if he is left free with an admonition, instead of being subjected to the unhealthful atmosphere of courtroom and prison. The prudent use of such discretionary power is fully compatible with Catholic principles and ideals. But the determining factor in such cases must be the moral welfare of the individual concerned and ultimately the common good, not considerations of personal friendship.

THE SIN OF BRIBERY

It is even more reprehensible to abstain from making an arrest or from enforcing the law in return for a bribe. The opportunities for this form of "graft"—at times, on an incredibly large scale—constitute one of the gravest moral dangers to the members of the police force at the present day in the

United States. Of course, all forms of bribery must be condemned, without qualification, according to Catholic moral principles. Even when the case centers about a transgression which is not of a criminal nature, such as a traffic violation, the officer who accepts money and in return abstains from making the arrest or issuing the summons is committing a sin against legal justice and is violating his contract and oath. The question naturally arises whether or not the policeman has any obligation of making restitution. It would seem that he would not be bound to indemnify the state or city for the fine which the offender, on conviction, would have been obliged to pay.³ On the other hand, if a third party has suffered some loss of property as a result of the policeman's dishonesty—as would be the case if the bribe enabled a thief to escape with stolen goods—there is certainly an obligation incumbent on the policeman of restitution to the injured party. There are times, however, when there is no appreciable harm done to anyone's material possessions as a result of the policeman's neglect of duty by reason of bribery—for example, when he condones a traffic violation or the selling of liquor beyond the stated hour at night. Must the policeman who neglects his duty on such occasions in return for a bribe give up the money? Some apply to this problem the principles of a sinful contract, according to which one who has actually fulfilled an obligation may keep the recompense, even though the fulfilment was a sinful deed.⁴ I hesitate to accept this solution in the case of an official who has accepted a bribe for granting immunity from the due process of law, because this case involves certain features which are not present in the sinful contract between private individuals. What the policeman sells in the case under consideration is something which can be lawfully granted only by public authority,

namely, freedom from indictment and from possible punishment. In other words, the policeman steals from the government its exclusive right to grant immunity and then sells the use of this right. Accordingly, the principles applicable to the stealing and selling of any commodity should be applied in this case. If it is possible, the officer should restore the bribe to the one who gave it and then make the arrest, thus taking back the unjust immunity. If this is no longer possible—for example, if the culprit cannot be found—the money should be given to the government, or at least distributed in charity. Unfortunately, there is not enough consideration given to the violations of commutative justice involved in the American practice of “graft” with the consequent obligation of restitution. We shall treat this in Chapter VII.

One form of bribe-taking for the granting of immunity from the toils of the law is particularly reprehensible—that which concerns houses of prostitution, or abortion-clinics. It is worth noting that even those members of the police force who are inclined to indulge in other forms of graft usually stay aloof from gain through bargaining with those who conduct these forms of vice. There are, indeed, cities in which prostitution is tolerated as the lesser of two evils, on the ground that unless there is a restricted district, vice will be more rampant and widespread. Those who have made a thorough study of the matter are convinced that this is an erroneous notion.⁵ However, in a city where this idea is applied to practice by the authorities, the patrolman may follow the decision of his superiors and abstain from interference. Needless to say, he would be forbidden by the law of God from directing anyone to one of these haunts. Moreover, in those places where the civil law endeavors to stamp

out prostitution, the policeman who would accept a bribe for granting immunity, in the case where he could make a raid on the establishment, would not only be guilty of the violation of his obligation to society and the transgression of his oath, but would also be a cooperator toward the sins of impurity that are committed in the houses which he allows to remain open.

THE POLICEMAN AND THE CLERGYMAN

Not infrequently Catholic policemen show special attention toward priests. There can be no reasonable objection to such a procedure when the reason for the special favor is the priest's ministerial activity. If a patrolman accompanies a priest through a lonely section of the city on a night sick call, or if the traffic director allows the priest driving to an accident to disregard the traffic signal, they are acknowledging that the benefits which the priest's ministrations confer on society justify special consideration, just as they do in the case of doctors or ambulance drivers. Again, the discretionary power mentioned above can sometimes be employed by a policeman in favor of a clergyman, on the principle that an intelligent and honest citizen, who may have failed against some minor ordinance, will be sufficiently warned against future negligence by a courteous admonition instead of being brought into court. As a police official expressed it: "Clergymen do not take undue advantage of their position, and hence the police are inclined to be lenient with the clergy of all denominations." But there are times when a policeman would be doing wrong in disregarding the conduct of a clergyman—for example, if this latter regularly drives his car at a speed that menaces the lives of others, or if he is found to be intoxicated while driving a car. The protection of society should

be the first consideration in such cases, and no clergyman can reasonably expect any special immunity from the police if he is guilty of conduct of this nature.

The Catholic policeman should realize that his office entails special danger to life, and consequently he has a graver obligation than the ordinary citizen of being prepared for a sudden death. It is very important that he should remain habitually in the state of grace. Priests who have pastoral obligations toward members of the police force should consider it their duty to give these men detailed instructions relative to their specific duties and also should urge them to receive the sacraments frequently, both because of the danger in which they constantly live and because of the special assistance they need from God to be faithful to their obligations as guardians of law and protectors of society.

NOTES TO CHAPTER V

¹ *Encyclopedia Americana* (Chicago, 1940), 22, p. 301.

² *Matthew*, 25 : 40.

³ J. Aertnys, C. SS. R. and C. Damen, C. SS. R., *Theologia Moralis* (13th. ed.; Turin, Rome, 1939), I, n. 787, pp. 532-33.

⁴ *Ibid.*, I, n. 846, pp. 562-64.

⁵ Cf. J. O'Brien, "Can We Crush Commercialized Vice?" *The Homiletic and Pastoral Review*, 39 (1938-1939), p. 33.

CHAPTER VI

DISHONESTY AND GRAFT

It is not easy for a public official to be perfectly honest in the performance of his civic duties. He encounters numerous opportunities of benefiting himself and his friends at the expense of the community. The temptation is augmented by the realization that if he is shrewd and circumspect, there is little danger that he will be caught. It is very difficult to convict a clever politician, even when it is an undeniable fact that he is enriching himself by means that are essentially no different from those employed by the highway robber. By a strange inconsistency, a man may be perfectly honest in his private life, while stooping to every form of venality and corruption in his public capacity. In this connection Lecky made the astute remark: "It is probable that the moral standard of most men is much lower in political judgments than in private matters in which their own interests are concerned."¹

DISHONESTY IN AMERICAN POLITICS

It would seem, too, that democracy offers more opportunities and greater incentive to dishonest practices on the part of officeholders than any other form of government. At any rate, in the United States, during the century and a half of its existence as an organized democracy, there has been an appalling amount of political corruption. Peter H. Odegard does not hesitate to say: "Among the great modern nations the United States has perhaps the least enviable reputation

as regards the probity of its political life. . . . For this the American form of government is partially accountable.”²

This deplorable feature of American public life is not confined to the lower grades of officialdom. “There have been in the United States governors who trafficked in pardons, who employed the state military forces to break strikes for friendly employers, and who used their veto power to defeat legislation unfavorable to their friends.”³ Many a dishonest scheme has been concocted in the halls of Congress, and at times in our history the White House has not been free from well-founded suspicion of an unethical use of the supreme executive power.

Crooked political activities are sometimes directed to the winning of prestige or office; but the usual objective is money—significantly designated “graft” in common American speech. Beyond doubt, only a small proportion of the facts concerning the thievery perpetrated by public officials in our country will ever be revealed; but what has been made public constitutes a story that is quite as fantastic as the best efforts of a top-notch fiction writer. Thus, in one of the historical works of Charles A. Beard and Mary R. Beard we read this account of an incident that occurred in New York about 1870 under the auspices of the infamous Tweed Ring: “The construction of a county courthouse, which was supposed to cost a quarter of a million dollars, in fact involved an outlay of eight millions, in which the city was charged \$470 apiece for chairs, and \$400,000 apiece for safes in which to store valuable papers.”⁴ Speaking of this era of New York history, Harper’s *Encyclopedia of United States History* says: “The operations of Tweed and his associates—known as the Tweed Ring—during their five years’ domination of New York added over \$100,000,000 to the bonded debt of the city, doubled

its annual expenditures, and cost taxpayers the enormous sum of \$160,000,000." ⁵

The prevalence of political dishonesty in our country is particularly obnoxious to upright Catholics because there is indubitable evidence that not a few members of the Catholic Church in public life are employing their official positions in a sordid and sinful fashion for their own benefit. And the clergy of our Church, if they view the matter sincerely, must admit that as a group they are not taking a sufficiently definite and outspoken stand on dishonesty in civil office. Those who have been deputed by the Church of Christ to expound the law of God and to labor for the salvation of mankind cannot in conscience be silent when the law of God is being so flagrantly violated and the souls of many committed to their pastoral care are in jeopardy. It is becoming increasingly evident that, for all practical purposes, logical and unchangeable norms of right and wrong are found only in the Catholic Church. Outside the Church it is becoming more and more customary to formulate moral laws according to personal inclinations and the demands of expediency. Accordingly, it is only from the bishops and priests of the Catholic Church that our public servants can expect clear and consistent guidance and admonition regarding their official duties. If the Catholic clergy fail in their duty in this respect, those who hold office throughout our land will have no one to teach them what they must do in order to fulfil properly the seventh commandment of God and to urge them to be faithful to the obligations incumbent on them by the virtue of justice.

The three types of justice commonly differentiated by Catholic theologians—legal, distributive, and commutative—impose their respective obligations on those in public office. It is not our purpose to discuss the various theological views

concerning the precise nature of these three species of justice, particularly the essence of legal justice and its relation to the other two species.⁶ It suffices to accept the general concepts of these three categories commonly agreed on by theologians and to apply them to the question we are treating. The present chapter will be concerned with the duties of civil officeholders stemming from legal and distributive justice; the following chapter will examine the problem from the standpoint of commutative justice.

OBLIGATIONS OF LEGAL JUSTICE

Legal justice imposes on individuals the obligation of rendering to the community that which is its due. The purpose of legal justice is to safeguard the rights of society; and every society, from the primary social body, the family, up to the society of the entire human race, has claims on its individual members. Sometimes the function of legal justice is expressed by the statement that it is the justice to be exercised by the parts of a social body toward the whole body. It must not be concluded from this that legal justice is primarily required of those subject to authority, binding them to obey the rulers of society. On the contrary, according to St. Thomas, legal justice belongs in the first place to the ruler.⁷ This is another way of saying that there is a graver obligation on the part of those who govern than on the part of those who are governed to labor for the welfare of the community. Furthermore, it implies that those in public office are bound to employ their authority, not for their own benefit, but for the advantage of the society. This is a grave obligation resting on the shoulders of civil officials, and to reverse the order in a matter of importance would be a mortal sin against the law of God.

Pope Leo XIII, in his Encyclical *Rerum Novarum*, proclaims this fundamental truth in these words: "Rulers should anxiously safeguard the community and all its parts; the community, because the conservation of the community is so emphatically the business of the supreme power, that the safety of the commonwealth is not only the first law, but is a government's whole reason of existence; and the parts because both philosophy and the Gospel agree in laying down that the object of the administration of the state should be, not the advantage of the ruler, but the benefit of those over whom he rules."⁸

Catholic officials, taught by their Church that all civil authority comes from God, should be especially impressed with the grave responsibilities incumbent on them in their public capacity. This thought was in the mind of Pope Leo XIII when he declared: "The gift of authority is from God, and is, as it were, a participation of the highest of all sovereignties; and it should be exercised as the power of God is exercised—with a fatherly solicitude which not only guides the whole but reaches to details as well."⁹ St. Thomas does not hesitate to declare that the ruler of a civil society is in the society "as the soul is in the body and as God is in the world."¹⁰ Those public officials who have been inaugurated into office by an oath have an extra obligation to perform their duties faithfully, which arises from the virtue of religion, besides the obligation of legal justice, and if they deliberately fail to perform their tasks in the manner expected of them, the violation of their oaths adds a new species to their sin.

Those who hold office in a democracy must remember that they are subject to the laws, even though they themselves participated in passing them, or are the authoritative judges

or executives for the observance of these laws by the citizens. Indeed, the days of absolute monarchs who were above the civil law seem to have passed away entirely.¹¹ In our country any civil official, however high his position, who exempts himself from a law by which the common citizen is bound fails against legal justice. Moreover, abuses of this nature are destructive of the spirit of democracy. In the Prohibition era there were numerous examples of public officials who had voted for this amendment and were outwardly zealous for its observance, yet at the same time were using their influence to procure an abundance of liquor for themselves and for their friends. Such hypocrisy reminds one of the Pharisees whom Christ so vigorously denounced.

At times it is comparatively easy for one in public office to evade the payment of just taxes, even to the extent of a considerable sum of money. Now, while some theologians have upheld the view that tax laws are purely penal, not obliging under pain of sin to their observance but only obliging to the acceptance of the penalty in the event of conviction,¹² the far more probable opinion holds that they bind in legal justice, so that it would be a grave sin to refuse to pay a just tax bill for a sizable amount.¹³

By virtue of legal justice public officials must devote to their tasks the attention and the time required for their proper fulfilment. If an officeholder neglects the work assigned to him—for example, by taking extended vacations—he is guilty of a serious offence against the law of God. As a public servant, he must make himself available to the reasonable demands of his fellow citizens who wish to discuss with him some matter of official business. It is ridiculous, as well as wrong, when a minor official, such as an alderman or a member of the state legislature, stands on his dignity to such an

extent that it is more difficult to see him than it is to get an audience with the President.

Sometimes a person is given a "soft" job, a sinecure, instituted simply to reward him for his party loyalty, and not because of any public necessity or utility. As must be evident to any intelligent person, to take a salary for a position of this kind is downright theft. No Catholic in such a situation can worthily approach the sacraments unless he is resolved to resign his sinecure as soon as possible.

OBLIGATIONS OF DISTRIBUTIVE JUSTICE

Distributive justice, also, has important bearings on the official activities of civil authorities. This type of justice is concerned with the equitable distribution of benefits and obligations among the members of a community. It is the one type of justice that is proper to those who govern, since legal and commutative justice must be practiced both by rulers and by ruled. Pope Leo XIII, in the Encyclical *Rerum Novarum* pointed out the importance of this virtue when he wrote: "Among the many and grave duties of rulers who would do their best for their people, the first and chief is to act with strict justice—with that justice which is called in the schools distributive—toward each and every class."¹⁴

Distributive justice has its source in the principle that the goods and the burdens of a community should be apportioned to the members according to their merits, capacities, and needs. Its criterion is not mathematic equality, as is that of commutative justice, but the equity of due proportion. Strangely enough, it frequently happens that one in authority conceives the idea that his position entitles him to distribute funds, offices, and other goods of common pos-

session according to his individual tastes. Thus, his personal whims and inclinations become the sole norm of distribution. Such a superior is guilty of violating distributive justice.

The duty of practicing distributive justice incumbent on the civil officeholder is analogous to that which binds the heads of other forms of society. Thus, in the domestic circle parents are obliged to be fair toward their children. If they are partial toward one or several, to the exclusion of the others, they are failing egregiously in their parental duty. The religious superior who shows favoritism toward certain members of his community commits sin. Ecclesiastical rulers are bound to confer offices according to the merits and capabilities of the candidates, without regard for personal preferences. The Church law explicitly asserts that a bishop has a grave obligation in conscience to bestow a vacant parish on that priest whom he regards as more worthy to rule it, without any acceptance of persons.¹⁵

Similarly, a civil official authorized to appoint someone to a subordinate post is bound in conscience to choose the candidate whom he considers most deserving and most capable of performing the required tasks so as to promote the common welfare. It would be interesting to know how many of those who hold positions of authority in our country are conscious of this obligation of distributive justice. Certainly, as anyone acquainted with actual conditions is well aware, the factor of personal preference without any regard for the common good frequently dominates exclusively the apportioning of jobs and favors.

The so-called "spoils system," usually dated from the administration of Andrew Jackson, is still in vogue, to some extent, in our country. This expression is sometimes extended to include all forms of political knavery, but in its

primary significance it means the distribution of jobs in the public service to the supporters of the party in power.¹⁶ We should not condemn this form of the "spoils system" as a violation of distributive justice, without making certain qualifications. If it simply means that posts of authority and responsibility, which are to be conferred by executive appointment, are distributed to members of the dominant party, it would not seem to be forbidden. For, such a system makes for greater harmony among those in administrative positions, and consequently for greater unity and strength in governmental activities. Furthermore, a public executive who sincerely believes that the political tenets of his party are most beneficial for the welfare of the country is quite consistent in regarding adherence to those tenets as an important factor toward the common good, rendering the party members much more worthy of public office than the members of the opposition. Finally, since it is a recognized fact that those who win office by election will fill the vacant posts with applicants of their own political creed, we can regard the successful candidate as having a mandate from the majority of the people to make appointments in this fashion. From this standpoint, therefore, it would follow that distributive justice is not necessarily violated when state or federal officials, empowered to suggest or to select subordinate officeholders, make their choice exclusively from those affiliated with their own political party.

However, granted the lawfulness of the "spoils system" to this extent, many qualifications must be added in order that distributive justice may be protected. Even though the choice may be limited to the adherents of one party, it would be wrong to select among these an applicant less capable than other candidates. Above all, it would be a des-

picable and sinful thing to do this in consideration of a bribe. At present we are condemning this loathsome form of graft—all too common, alas, in our country—as a transgression of distributive justice, an act of dishonesty against the more worthy persons who are rejected because they cannot or will not pay the price that the official or the party demands. In the following chapter the relation of this transaction to commutative justice will be considered.

The sin of selling a political appointment is greater when the one appointed is not only less worthy than other candidates but is positively unworthy, incapable of performing properly the duties connected with the office. On one occasion in one of our large cities the man appointed as keeper of the public records at a salary of \$6500 a year could neither read nor write English.¹⁷ Any official who would appoint an incompetent candidate to a civil post would not only fail by injustice against the worthy aspirants, but would also commit a sin of injustice against the community.

CIVIL SERVICE

The civil service method, or merit system, which was established by our federal government in 1883, has done much toward securing better types of citizens for public offices than those selected by executive officials. Many offices are still filled by the latter method, though there is a tendency to embrace a wider range of positions under civil service appointments. For example, on June 25, 1938, the Ramspeck-O'Mahoney Postmaster Act was passed, according to which the postmaster positions of the first, second, and third class throughout the country—almost 15,000 in number—are to be filled by the civil service system, and the incum-

bents are to hold office during good behavior. This is a vast improvement over the former method, which made these offices a matter of presidential appointment for a period of four years, and afforded a means of rewarding the faithful henchmen of the successful party—a system which was hardly adapted to procure the most worthy and most capable postmasters.

The usual procedure under civil service rules followed by the federal government when there is a position to be filled is for the civil service commission to submit to the appointing official the names of the three persons highest on the examination list.¹⁸ One of these three must be chosen, but for the second vacancy selection must be made from the group consisting of the remaining two and the next highest available eligible. The same procedure must be followed in filling additional vacancies until each eligible candidate willing to accept has been considered in connection with three actual appointments. The selection must be made without regard to race or to political or religious considerations, except as authorized or required by law. An example of this exception is the law which forbids the appointment of any person who is a member of a political party or organization which advocates the overthrow of the constitutional form of government in the United States.¹⁹

The civil service method is certainly admirable, and in the course of years it has been accepted by a considerable number of the states and cities of our country. However, there are many desirable positions in federal, state, and local government still subject to direct appointment. The obligations of those entrusted with these appointments, mentioned above, are serious matters of conscience, the disregard of

which would burden the soul of the appointing official with the guilt of grave sin.

DUTIES OF THE CLERGY

The bishops and priests of the United States should make it a matter of serious concern to induce Catholics in public office to be scrupulously honest. The sound Catholic principles regarding the obligations in justice to which civil rulers are subject should be explained adequately in sermons and in catechetical instructions, particularly in parishes containing persons in governmental positions. It is to be noted that Q. 261 of the new Baltimore Catechism lists "the accepting of bribes by public officials" among the sins against the seventh commandment. The confessor of one who is vested with civil authority should deem it his duty to question this individual about his public conduct if there is some reason to suspect that he is addicted to dishonest practices. This rule must be followed, even in the event that the penitent makes no reference to such misconduct. For, according to St. Alphonsus, the confessor of those in public stations must ordinarily admonish them about their duties, even when they are invincibly ignorant of these obligations, because neglect of duty on the part of such persons is very harmful to the common good.²⁰ The application of this rule is certainly called for in the case of a Catholic official who receives the sacraments regularly and yet gives every indication of being involved in dishonest practices.

The fact that an officeholder of this type is frequently very generous in his contributions to the Church and to pious causes must not deter a bishop or priest from admonishing or reproving him. Still less is a Catholic clergyman justified in

omitting correction or reproof from fear that his personal friendship with an influential politician will thereby be jeopardized. And certainly to invite a public official to address the Holy Name Society or to speak at a communion breakfast when everyone knows that he is engaged in numerous projects for obtaining graft is nothing less than a grave scandal.

Sometimes the excuse is given by public officials, or by their friends in an effort to defend them, that everyone in public life takes graft, and so, it can not be very wrong. This is an excuse which, even if it were based on a correct factual premise (which it is not), would not be valid. No matter how many persons commit a sin, it still remains a sin. And even if those outside the pale of Catholic truth regard certain forms of political dishonesty as perfectly lawful, that is no reason why Catholics should fail to uphold the principles of divine law both by word and by example. Today, the Catholic Church is able to influence the lives of men toward virtue to a greater extent than any other institution. Hence, all Catholics, both clergy and laity, should do their utmost toward giving the seventh commandment of God a practical significance in the public conduct of those who exercise civil authority in our country.

NOTES TO CHAPTER VI

¹ W. Lecky, *History of European Morals* (London, 1877), I, 151.

² P. Odegard, "Corruption," *Encyclopedia of the Social Sciences* (New York, 1937), II, 452.

³ *Ibid.*

⁴ C. Beard and M. Beard, *The Rise of American Civilization* (New York, 1931), II, 310.

⁵ Cf. "Tweed," *Encyclopedia of United States History* (New York, 1905), IX, 135.

⁶ B. Merkelbach, O. P., *Summa Theologiae Moralis* (Paris, 1938), II, nn. 252-56, 253-58.

⁷ St. Thomas *Summa Theologica* II-II, q. 58, a. 6.

⁸ Cf. *Five Great Encyclicals* (New York: Paulist Press, 1939), p. 17.

⁹ *Ibid.*

¹⁰ St. Thomas *De Regimine Principum*, I, 12 (Opera [Parma, 1864], XVI, 235).

¹¹ B. Merkelbach, *op. cit.*, I, n. 292, pp. 261-62.

¹² H. Davis, S. J., *Moral and Pastoral Theology* (New York, 1938), II, 338 ff.

¹³ M. Crowe, C. SS. R., *The Moral Obligation of Paying Just Taxes* (Washington: The Catholic University of America, 1944).

¹⁴ Cf. *Five Great Encyclicals*, p. 16.

¹⁵ *Codex Juris Canonici*, Can. 459, 1.

¹⁶ L. White, "Spoils System," *Encyclopedia of the Social Sciences* (New York, 1937), VII, 301.

¹⁷ Cf. *The Business Value of the Merit System* (New York: National Civil Service Reform League, 1940), p. 3.

¹⁸ Eligibility is not reckoned solely on the intellectual ability manifested by the examination. Veterans are given preference on a five or ten point basis. No reasonable objection could be raised to this method of advancing those who have fought for our country.

¹⁹ Cf. *Federal Employment under the Merit System* (Washington: Government Printing Office, 1940), pp. 58, 100.

²⁰ St. Alphonsus, *Theologia Moralis*, L. VI, n. 615 (ed. Gaudé [Rome, 1909], III, 640).

CHAPTER VII

GRAFT AND COMMUTATIVE JUSTICE

In the preceding chapter the subject of dishonesty and graft on the part of those in public office was discussed in relation to the virtues of legal and distributive justice. The purpose of the present chapter is to consider the same subject in relation to commutative justice. By commutative justice is meant the virtue which urges a person to render to a distinct person what is his by strict right.¹ By "person" can be meant not only an individual, but also a group. The feature which essentially distinguishes commutative justice on the one hand from legal and distributive justice on the other is that the two parties involved in commutative justice are entirely distinct from each other, whereas legal and distributive justice essentially connote the inclusion of one in the other. For legal justice urges a part of society to render to the whole society what is its due, while distributive justice urges the whole society to render to a part what is its due. Accordingly, in those transactions between society and an individual in which the individual functions as a distinct entity, commutative justice is involved, just as it is involved in transactions between two private persons. For example, when a citizen labors in building a road for the state, the state is bound in commutative (and not merely distributive) justice to remunerate him. On the other hand, the citizen is bound to give an honest day's work for his salary in commutative (and not merely legal) justice. From this it follows that

dishonest dealings by those in public office can extend beyond the bounds of violations of legal and distributive justice and transgress the more important virtue of commutative justice. Indeed, it is the main contention of the author in this chapter that such acts of dishonesty are generally opposed to commutative justice, and consequently entail the obligation of restitution.

The standard works on moral theology do not discuss to any considerable extent or in detail the violation of commutative justice involved in the numerous and ingenious ways by which public officials can unlawfully enrich themselves. Doubtless the main reason is that most theological works are of European authorship, and graft as a fine art, with its varied and complicated methods, is peculiarly a product of American public life. Quoting again Peter H. Odegard: "Among the great modern nations the United States has perhaps the least enviable reputation as regards the probity of its political life."² Sometimes in theological books we read the statement that violations of commutative justice are often connected with transgressions against distributive justice,³ but the treatment of the particular ways in which civil rulers are likely to violate justice is very meager. Archbishop Kenrick devoted only two pages of his three-volume work on Moral Theology to the duties of civil legislators and executives, and said nothing explicitly about their violations of commutative justice, although some of his remarks indicate that he was familiar with the methods employed by dishonest politicians in our country a century ago.⁴

THEOLOGICAL TEACHINGS CONCERNING GRAFT

Because the textbooks of theology are so defective in this respect, it is not surprising that priests are hesitant in giving

decisions about the morality of certain practices quite common in political life. For, it must be admitted, some of the ways by which public officials enrich themselves are so cleverly protected by the external appearance of respectability and honesty that one might easily be led to believe that, although not the noblest methods of acting, they are free from the guilt of sin. Indeed, Father McHugh, O. P., includes in the very definition of graft the idea that it is a transaction which is outwardly lawful.⁵ At any rate, a priest would not assert that a certain unsavory political practice is opposed to commutative justice, and that in consequence the obligation of restitution is involved, unless he is sure of the theological soundness of his statement—and the average priest does not feel sure of his ground on an important matter involving restitution unless the theologians support him quite explicitly and definitely.

Because usually they do not receive sufficiently definite and detailed instructions from their priests, Catholics in public office are inclined to take an easy view of the obligations connected with their civil duties and of the morality of the many means whereby they can earn something "on the side." Beyond that, there are many Catholic politicians who, in perfect good faith, regard the thousands of dollars that they acquire by intrigue and bribery as "honest graft." It would appear that they do not consider themselves bound to mention these transactions in confession, and still less to renounce the huge sums and magnificent possessions they have amassed from a career in politics.

Now, the simple truth is that the phrase "honest graft" is a contradiction in terms; and that in *practically* all instances in which a person in public life grows richer by virtue of that office over and above his salary, he is violating commutative

justice. I say that this occurs in *practically* all instances, for there can be exceptions in the matter of small gifts. The letter carrier who is presented with a Christmas gift of five dollars by a business man to whom he has been delivering mail, and the patrolman who is given a box of cigars from a storekeeper on his beat can accept these offerings without any qualms of conscience if they do not allow these gifts to affect their official service—in a word, if they perform their duties just as faithfully for those who do not donate as for those who do. But when there is question of “big money”—when a public official profits from some service to the extent of hundreds or even thousands of dollars—it is absurd to speak of a “gift.” It is undoubtedly a matter of bribery or extortion. He is receiving money either to render a service which he should not render or to render a service which he is supposed to perform freely, but actually will not perform unless he is paid for it.

Under the following four headings I have grouped many (though certainly not all) of the dishonest practices resorted to by officeholders for their personal advantage. My purpose is to discuss in what manner a violation of commutative justice is involved in these transactions. I readily admit that the transgression of commutative justice is not immediately evident in all cases; and I know full well that there are many public officials—some of them Catholics who regularly approach the sacraments and are above reproach in their private lives—who deem these transactions legitimate means of emolument connected with their office and salve their conscience with the argument: “Everyone does it.” But in the eyes of God, that argument does not justify the violation of His law.

GRAFT FOR AN APPOINTMENT

1. A public official sometimes receives a substantial sum from those whom he appoints to a job. Thus, there may be five vacancies in the clerical staff of the city hall, and there are fifty applicants. The official charged with hiring these assistants lets five of the group know that the handing over of \$100, or the promise to do so, will secure an appointment. Now, it might be argued that the official is free to appoint any five of the applicants, and that if he chooses to appoint those who will do him a favor in return, he is not guilty of injustice—neither to the others, because they had no right to the job, nor to the chosen ones because they are willing to give the \$100. But such an argument is very specious. For, although the official may have a certain measure of discretionary power in the selection of the clerks, he has no right to make his *personal* profit the norm of selection. By virtue of his office, he is empowered and obligated to choose them without making personal gain a condition of selection. This duty is included in the scope of his salary, and by demanding payment for an appointment he is seizing a sum of money to which he has no just title. To say that the favored candidates are willing to pay is no justification; for their willingness is the result of his unjust coercion. In the same sense a parent whose child is kidnapped may be willing to pay ransom for its return, but that gives the kidnapper no title to the money. In both cases there is the crime of extortion, pure and simple, and commutative justice is violated.

Furthermore, the official in question has not full discretionary power of selection. If there is a difference of merit and ability among the candidates, he would fail against distributive justice if he did not choose those who appear the

most worthy and most capable. If he chose a clerk who was positively unworthy—one who could not satisfactorily perform the duties of that office—he would also fail against commutative justice in respect to the state. In the very hypothetical supposition that all the candidates for an office are of equal worth, some objective standard must be sought as a basis of selection. Those who had first applied could be preferred, or the age of the applicants could be the deciding factor. Even the selection by drawing the names of the lucky ones from an urn would not be wrong—but any mode of choosing those to be given the appointment that is based on payment by the appointee to the appointer is substantially the same procedure as highway robbery.

The same conclusion applies to the official who requires his subordinates to pay him tribute in order to retain their jobs, and to the commissioner who will grant shopkeepers a license only on condition that they remunerate him (the alternative being that he will refuse the license on some specious pretext), and to the judge in a civil suit who gives his decision in favor of the party actually in the right, but does so only in consideration of a substantial sum.⁶ All these are cases of extortion. It makes no difference whether the money is paid before or after the official performs the desired act; neither does it change the nature of the sin if the graft assumes the guise of a free gift. True, a spontaneous gift from one who has received a benefit from a public official can be accepted without violation of justice, even though the conferring of the benefit was a part of his bounden duty. But, if it is clearly understood by both parties that failure to remunerate will mean that the recalcitrant citizen will be effectively penalized (particularly by the rejection of his reasonable petition or just right on a future occasion), the transaction is no longer

the spontaneous conferring of a gift but the rapacious extraction of a bribe.

GRAFT FOR OFFICIAL INFORMATION

2. The official who makes use of knowledge which he is bound to keep secret can fail against commutative justice if he sells this secret to others. For example, the mayor of a city knows officially that a piece of property in the suburbs will soon be much more valuable because a school is to be built in the vicinity. Accordingly, for a consideration he transmits this information to a real estate company which will buy the property from the present owners for much less than they would soon be able to demand for it. In this case the executive cooperated in a sin against commutative justice toward the present owners. It is true, Vermeersch doubts this statement, apparently on the ground that the owners receive a just price as far as present values are concerned, and have no strict right to the greater price which the property will soon be worth.⁷ However, he seems to have overlooked the fact that it is an act of injustice to deprive a person of something, even if he has no strict right to it, if unjust means are used.⁸ Now, in the present instance the means employed to deprive the owners of a chance of a higher price is unjust—the unlawful manifestation of an official secret. In the words of Tanquerey, referring to public officials who are guilty of a violation of their trust in this manner: "They misuse their public function and unjustly favor themselves or others, to the detriment of a third party."⁹ It would follow that the official who sells a secret whereby profit accrues to the buyer of property is bound to recompense those who were induced to sell the property by the recipients of the "tip." His obliga-

tion depends on the failure of the profiteers to restore. If they restore to the owners, he should restore to them the bribe; if they do not, his indebtedness to the owners will include the amount of the bribe. At any event, even in the most generous theological interpretation of the transaction, it is hard to see how the official can be allowed to keep the bribe since he acquired it without a just title.

Some theologians believe that an officeholder who uses official information regarding the approaching modification of the value of property for a *personal* transaction (for example, if the mayor in the case given above bought the property for himself) does no wrong.¹⁰ Tanquerey considers this a disputed point.¹¹ Accordingly, an official who would act thus could not be obliged to restitution, at least if no positive law forbade him to participate in such a deal. But no one can fail to see that such a mode of action would be far from honorable.

THEFT FROM THE GOVERNMENT

3. It stands to reason that the purloining of property owned by the government is a violation of commutative justice. Apparently there are some officeholders who entertain the naive idea that public property is a thing without an owner, which they may lawfully acquire if they can get possession of it, something after the manner of treasure trove. Some forms of this kind of graft are so direct that it is impossible for anyone possessing the basic concepts of right and wrong to perpetrate them with a clear conscience. For example, when the budget is padded with fictitious expenses to cover the money which the officials have appropriated, or when the salary list sent to the treasurer contains the names

of individuals who have been dead for years (or who never existed), or when unnecessary jobs are created for the benefit of henchmen, it is a matter of unvarnished theft. And even the dullest intellect should be able to see that the money is being stolen from the taxpayers.

However, other forms of this type of graft are more indirect. Thus, when a civil administrator gives a contract for public work to a company and in return demands (explicitly or implicitly) a share of the profits, he is undoubtedly failing against commutative justice. Ordinarily the injustice would be done to the government. For, in the majority of cases the contractor will add to his bill a sufficient amount to cover the sum of the graft; and in this supposition the graft would have to be returned to the public treasury. In the presumption that the bill was not padded, the restitution would be due to the contractor since this would be a case of extortion, forced payment for a service that should be rendered freely, such as was discussed above under 1.

Under the same classification of tapping the public funds comes the case of the officeholder who sends workmen, in the employ of city or state, to repair or to paint his house. A similar type of theft takes place when articles that have been used in public buildings and still have considerable money-value, but are now being supplanted by new material—such as typewriters, rugs, clocks—are transferred to the homes of the officials. The use of the stationery and the stamps provided for public business constitutes a sin against justice when directed to the personal benefit of the officeholders, at least when it takes place on a large scale. Of course, neglect of the duties for which a public official is being paid is a violation of commutative justice. And, to close this litany of thievery (which is by no means exhaustive), there are officials

who spend the public funds wastefully with the purpose of winning favor and votes from the beneficiaries among the citizens.

GRAFT FOR IMMUNITY

4. A public official who takes graft for an intangible good which can be lawfully granted only by society, but which the beneficiary willingly pays for, would seem to commit a sin against commutative justice. Thus, a police officer abstains from arresting a traffic violator, receiving in return a sum of money. Actually the officer has sold something which only the law can grant—immunity from arrest and from the burden of standing trial. Or, to put it another way, the policeman has infringed for personal gain on a right which belongs to the state—the right to indict the culprit and (supposing a conviction) to punish him. Add to this the fact that the policeman by virtue of his office is bound to protect this right of the state. It is true, there is no obligation in justice binding the official to recompense the state for the fine which (probably) would have been imposed on the offender, for the state receives a strict right to the fine only through the sentence of the judge.¹² But the official has enriched himself by a transfer of something he had no right to sell; and it would seem that his case is analogous to that of the man who steals and sells a tangible piece of public property, like an automobile belonging to the city. The first duty of the public servant who sells immunity is to restore the bribe and make the arrest if this is still possible; if not, he must turn over to the public treasury the money he acquired by encroaching on the rights of the law. The same principle would apply to the judge in a criminal trial who accepts a bribe to acquit a man whom he knows to be guilty. Ordi-

narily it would be impossible to bring this criminal to trial again; hence, ordinarily the judge must make restitution of the bribe to the government.¹³

The agreement by which a public official enriches himself by a neglect of his duty, as in the cases just given, may appear to some as the *base contract* (*contractus turpis*), in discussing which theologians say that the money may be kept by the person who has fulfilled the stipulated evil deed.¹⁴ However this difference must be noted: In the fulfillment of the ordinary *contractus turpis* there is no infringement on the rights of a third party. Thus, the prostitute who has been paid for the commission of sin may keep the money if she has performed the act demanded; for in the fulfillment of her bargain she has not deprived a third party of any right. But if a *contractus turpis* involves a violation of a strict right of a third party—for example, if a watchman accepts a bribe to permit a thief to ransack a house which the watchman is obligated to guard—restitution to the injured party is demanded. In the case of the delinquent official, considered above, the right of society which has been violated is of the moral order; nevertheless, both parties to the unjust agreement evaluated it as something worth money. Accordingly, if the violation of the right cannot be repaired (by the recall of the immunity and the bringing of the offender to trial or to punishment), the money for which that right was exchanged should be given as restitution to the public treasury.

THE DUTY OF RESTITUTION

The view that commutative justice is violated in the cases of political graft treated above (and in other cases of substantially the same nature) may appear to some readers to be

overstrict. Yet, the conclusions that have been proposed seem to follow logically from accepted principles of Catholic theology. The practical consequence is that public office-holders who have profited in the various ways described in this article are bound to relinquish their ill-gotten gain by restoring it to the injured parties—either private individuals or the state, as the case may be. When the rights of private individuals have been violated and it is subsequently impossible to make restitution to these individuals themselves (or to their heirs) the unjust gain must be turned over to the poor or to pious causes. Illicit profit at the expense of the government is normally to be restored to the public treasury. We say “normally” because it sometimes happens that there are sufficient reasons for restoring to the poor or to pious causes money or property stolen from the government.

One who cannot make restitution at present because of insufficient means may, of course, defer the fulfillment of this obligation until he can make payment. This principle can be applied also to the man who could make restitution at present only by greatly reducing his family in the economic scale and perhaps even by drawing down ridicule and contempt on himself and those dear to him. But it should be remembered that one who is unable to fulfil his entire obligation at once must retrench on his living expenses so that he can satisfy his indebtedness gradually.

As was previously noted, it is quite possible for a public official to engage in certain forms of dishonesty without realizing that he is failing against commutative justice. He thus becomes what is known as a possessor in good faith. When he becomes aware of his obligation to restore, he must give back whatever is left, really or equivalently, of the unjustly acquired money. But in the event that he has spent the

money, and is now no richer than he would have been had he not acquired it, he is bound to no restitution. Furthermore, there are occasions when a confessor is justified in allowing a penitent to remain in good faith on some point of justice—either the sinfulness of a practice to which he is addicted or the obligation to make restitution for past transgressions. However, this will rarely happen in the case of a public official who is habitually enriching himself by graft; for the scandal caused the faithful when they see a man regularly approaching the sacraments who is commonly recognized as a dishonest politician will impose on the priest the obligation of enlightening him as regards his duty, even though he is apparently unaware of the immorality of his conduct.¹⁵

OBLIGATIONS OF THE CLERGY

Priests should also deem it their duty to give frequent and detailed sermons and instructions on the obligations of those in posts of civil trust and responsibility. When consulted by such persons, a priest must not hesitate to explain in their full consistency and practical application the principles of Catholic theology on commutative justice and the obligation of restitution after a violation of this virtue. Priests must be careful not to give even an appearance of favor toward politicians publicly known to be violating these principles—for example, by inviting them to speak at a communion breakfast or a Holy Name rally. On the contrary, the priest shall make it quite clear that a man cannot at the same time be a dishonest politician and a practical Catholic—even though he may loudly proclaim his loyalty to the Church and give generously to works of Catholic charity.

The world is in a sad condition today, one of the chief

reasons being that there are many men in public life who prefer their own selfish interests to the public welfare. Catholics should lead the way to reform, because they have the advantage of instruction in moral principles by the one true Church. In the United States, where graft is so common a feature of public life, Catholic officials must be disabused of the idea that dishonesty is permissible to them "because everybody is doing it." Even if it were true that everybody else is doing it, Catholics would have to be different. The law of God as expounded by the Catholic Church is unchangeable and universal; it does not lapse just because it is extensively transgressed. Our fellow citizens are sorely in need of upright men who will guide and direct the affairs of government sincerely and honestly. In the vanguard of those who will supply this need should be those Catholics who have been elected or appointed to the dignity and the responsibility of public office.

NOTES TO CHAPTER VII

- ¹ H. Davis, S. J., *Moral and Pastoral Theology* (New York, 1938), II, 257.
- ² P. Odegard, "Corruption," *Encyclopedia of the Social Sciences* (New York, 1937), II, 452.
- ³ Cf. B. Merkelbach, O. P., *Summa Theologiae Moralis* (Paris, 1928), n. 254, pp. 255-56.
- ⁴ F. Kenrick, *Theologia Moralis* (Philadelphia, 1841), I, 398 ff.
- ⁵ J. Mc Hugh, O. P., "Graft and Morality," *The Homiletic and Pastoral Review*, 38 (1937-1938), p. 242.
- ⁶ Cf. B. Merkelbach, *op. cit.*, II, n. 636, p. 669.
- ⁷ A. Vermeersch, S. J., *Theologia Moralis* (Bruges: Beyaert, 1928), II, n. 462, pp. 443-44.
- ⁸ Cf. B. Merkelbach, *op. cit.*, II, n. 291, pp. 292-93.
- ⁹ A. Tanquerey, *Synopsis Theologiae Moralis* (10th ed.; Paris: Desclée, 1937), III, n. 737, p. 355.
- ¹⁰ L. Wouters, C. SS. R., *Manuale Theologiae Moralis* (Bruges, 1932), I, n. 895, p. 603.
- ¹¹ A. Tanquerey, *op. cit.*, III, n. 737, p. 355.
- ¹² Cf. B. Merkelbach, *op. cit.*, II, n. 316, pp. 321-23.
- ¹³ If a judge, through bribery, renders an unjust decision in a civil suit, he is guilty of a violation of commutative justice toward the loser. The first way to the restoration of justice is for the winner to surrender his unjust gain to the loser, and for the judge to restore the bribe to the one who gave it. But if the winner will not restore, the judge must recompense the loser for his loss, which would mean the giving up of a greater sum than he had received through bribery.
- ¹⁴ Cf. B. Merkelbach, *op. cit.*, II, n. 465, pp. 482-84.
- ¹⁵ St. Alphonsus, *Theologia Moralis*, L. VI, nn. 615-616 (ed. Gaudé [Rome, 1909], III, 640).

CHAPTER VIII

DECEIVING THE PUBLIC

It is a commonly accepted tradition that truthfulness is a basic American virtue. Among our treasured legends is the story of George Washington candidly acknowledging to his father that he had cut down the cherry tree with his little hatchet. We seem to take it as a matter of course that the Father of our country transmitted his spirit of veracity to all his countrymen, thus making the United States outstanding among the nations of the earth in exact adherence to the canons of truthfulness.

NEED OF TRUTHFULNESS

However, like many other widely accepted beliefs, this cherished tradition of American veracity makes a very poor showing when it is investigated thoroughly and dispassionately. There is a woeful disregard for honesty in speech among the people of the United States, and with the passing of the years this tendency seems to be increasing in flagrancy and frequency. Even perjury is regarded by many as a slight fault. In this article, however, we are concerned with falsehood as directly injurious to the public welfare, with lack of veracity on the part of those who occupy posts of civil authority or whose professional activities provide the opportunity of speaking to large numbers of people. It happens not infrequently, by a strange inconsistency, that persons

who are scrupulously truthful in their private associations throw truthfulness to the winds when they are functioning in their official capacity.

One of the chief reasons for the need of veracity in man's communications with his fellow men is the common good of society. St. Thomas expresses it thus: "Since man is naturally a social animal, one man owes to another that without which human society could not be preserved. Now, men could not live together unless they believed one another as mutually manifesting truth."¹ The preservation of proper social relations requires truthfulness even in the communications of one private individual with another inasmuch as men would commonly treat one another with distrust if there were a continual likelihood that the statements of one's fellow men are false. This reason is still more cogent when those on whom suspicion of dishonesty falls are persons whose statements are directed to the public at large. When untruthfulness becomes a habit with such persons, the spirit of distrust which is thereby engendered among those who listen to them or read their writings becomes a potent factor toward the weakening and the disruption of social solidarity.

It is not pessimism to assert that in present-day America the lack of veracity on the part of a considerable number of persons in posts of public trust or responsibility is gravely detrimental to society. Furthermore, the prevalence of falsehood is not only replacing mutual trustfulness and confidence with a spirit of suspicion and cynicism, but it is also seriously undermining ideals of truthfulness on the part of the American people as a whole. People are strongly influenced by the standards of conduct adopted by those who govern them or occupy posts of prominence in the social or business activities of the nation. Unfortunately, many who

hold such public positions today seem to have little or no concern for the truth of their utterances. Expediency rather than veracity seems to be the primary objective of their public statements. Now, when falsehood becomes habitual with persons whose statements are widely circulated, great harm necessarily accrues both to society and to the moral health of those within the sphere of their influence. Such a deplorable condition is actually developing to an alarming degree in the United States.

TRUTHFULNESS IN CAMPAIGNS

“Campaign promises” are apparently recognized as legitimate means of winning electoral offices—and by this we mean promises which the candidate has no intention of fulfilling, in the event that he obtains the desired post. Of course, a successful candidate can always allege after he has taken possession of the office that unforeseen happenings and changed circumstances have rendered the fulfillment of his promises impossible. And indeed Catholic theology admits that a promise does not bind if some unexpected event renders its fulfillment very difficult. Thus, the theologian Merkelbach states: “The obligation of a promise ceases if there occurs or becomes known a notable change of circumstances of such a nature that one would not be considered to have intended to oblige himself in this event.”² Such being the case, it is very difficult in a concrete instance to accuse an officeholder of falsehood when he fails to live up to his campaign pledges.

Nevertheless, the candidate who makes a pre-election promise is obliged to take into consideration all the contingencies that can reasonably be anticipated, even if they are only slightly probable, and make the promise only when he

has the assurance that none of these will prevent him from carrying it out. This is a matter of conscience, at least if he intends to make an absolute, unconditioned promise. The candidate who, while making an unqualified promise, realizes that there is some probability that circumstances will arise which will make its fulfillment impossible is guilty of untruthfulness. In view of the uncertainty of the future and the innumerable circumstances that are likely to arise, it is difficult to see how a candidate can make many unqualified promises in the course of his campaign. The sweeping assurances that jobs will be provided for all, that taxes will be considerably reduced, that dishonest officials will be ejected, that the city will be rid of criminals and racketeers, etc., depend on so many uncertain factors and require the collaboration of so many human beings that, even with the best of intentions, one cannot make them absolutely. Unfortunately, many Americans repose the most confidence in the man that promises most. If they were better judges of human nature they would recognize that the man who gives an unhesitating assurance that these reforms will be effected is less to be trusted than the man who merely promises that he will do the best he can toward attaining this objective. At any rate, Catholics in political life should be mindful of their obligation in conscience not to make vain promises, the fulfillment of which is very problematical, even though they secure the office for which they are striving.

In the course of a campaign it is not unusual for a candidate to impugn the ability or the integrity of his opponent. Now, it is true, the common welfare demands that no incompetent or unworthy person be admitted to a post of public trust and responsibility. Consequently, it is lawful at times to reveal even the secret faults of an aspirant to office—

namely, when they would render him unfit for the office in question. Merkelbach states: "The editors of newspapers can disclose the faults of candidates who are seeking dignities or public offices, if this knowledge contributes to the public good."³ With the same qualification, the rival candidate could lawfully make such a disclosure. But it must be remembered that the revelation of some secret fault of the past which no longer affects a person's character is not allowed, even in the heat of a political campaign. Furthermore, there must be strict adherence to objective facts. Sad to say, this rule is often transgressed by political office seekers or by their adherents in our country. Some of them do not hesitate to utter the most dastardly falsehoods about their rivals. Some years ago, just before a presidential election, a rumor was circulated under the guise of secret information that one of the candidates had a strain of Negro blood. Of course, such an assertion, even if it were true, should have had no effect on the decision of the voters; they should have based their judgment of the candidate on his personal qualifications, irrespective of his race or ancestry. But, as things actually exist in the United States, the fact that a candidate for the presidency is of Negro descent would very probably mean that he would lose the election. In this particular instance the supporters of the candidate in question were able to prove conclusively that the statement was a falsehood, and he won the election. But the incident illustrated the harm that can be unjustly inflicted on a political aspirant by that deplorable feature of American life known as a "whispering campaign." Those who are inclined to resort to such a procedure should realize that whether they use detraction or calumny they are guilty of a grave sin of injustice against their victim, both by robbing him of his good name and by depriving him unlawfully of his chance of election.

TRUTHFULNESS IN THE PRESS

The columns of our newspapers are laden with falsehoods. There are, indeed, laws intended to protect decent people from libel; but in practice these laws can be easily evaded. A clever writer does not find it difficult to convey a false impression even while saying nothing that can be proved to be false. An omission of a portion of a statement may lead the readers to think that the speaker said the very opposite of what he actually asserted. This method, and others of a similarly insidious nature, may draw down opprobrium or ridicule on an innocent person from thousands of beguiled citizens. An example of this unsavory journalistic procedure occurred a few years ago, when a Catholic official excluded a certain periodical from the mails because it contained objectionable pictures and scurrilous reading matter. The incident was described in some newspapers in such wise that the average reader would regard the prohibition as an example of ridiculous prudery and the gentleman who banned the magazine as a stubborn, narrow-minded dolt. Actually, the official showed himself a decent, clean-minded man with the courage to restrict the spread of a suggestive and harmful periodical. Certainly, the journalists who derided the gentleman in question deceived the public, even though no individual statement in their account of the matter could be classified as a definite falsehood. The same procedure is sometimes adopted by sophisticated newspaper writers in their comments on the banning of a book or a play by a judge or a censor. This attitude of "smartness" not only constitutes an act of injustice toward those whom it holds up to ridicule, but it also tends to lower standards of decency in the readers.

Catholic newspaper men especially should be mindful of

their grave obligation to practice the virtue of veracity in their professional activities. The amount of harm they can do by deceiving the public is incalculable—whether it be by unvarnished falsehoods or by clever innuendo and implication. Their status gives them no dispensation from the eighth commandment.

TRUTHFULNESS IN ADVERTISING

The business of advertising has assumed gigantic proportions in the modern world. Those who make or sell a commodity, whether it be soap or a suspension bridge, naturally desire to present it in the most favorable light to prospective buyers. But truthfulness must enter this field also. The conditions for honest salesmanship laid down by Catholic moralists would doubtless appear entirely nonrealistic, if not ridiculous, to the average high-powered advertiser or salesman of the present day. Thus, it is a Catholic principle that one who is trying to sell an article is bound to reveal its grave defects—at least those which are likely to escape the notice of the buyer.* How rarely is this principle applied to modern commercial practices and advertising! Everything that is put up for sale is described as the most perfect product of its kind, free from all defects, the most effective means of bringing health or comfort to those who use it.

Legal measures have been instituted to prevent or to check false advertising claims. The Wheeler-Lea amendment to the Federal Trade Commission Act (March 21, 1938) is quite in harmony with the teachings of Catholic moralists. This amendment provides that "in determining whether an advertisement is misleading there shall be taken into account, among other things, not only representations made or

suggested . . . but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity, etc.”⁵ The federal postal laws, excluding fraudulent advertisements from the mail, have also been of some benefit toward repressing this deplorable form of falsehood. However, despite these praiseworthy efforts of government agencies, the extent of deliberately deceptive advertising is fantastic. In the *Encyclopedia of the Social Sciences* we read the following details:

Chairman Humphrey of the Federal Trade Commission, admitting that there was no method by which the amount could be accurately measured, estimated in 1928 that the amount taken annually by fraudulent advertising was more than five hundred million dollars. The greatest portion of this he believed to be drawn from the sick, the poor and the ignorant, through advertisements of medicines, cures, fake schools and the like, although other credulous persons contribute heavily.⁶

In this connection it is interesting to note that several of the charges issued in the course of the recent war by the Federal Trade Commission on the score of deceptive advertising have been directed against so-called “armored” Bibles and prayer books, which the dealers claimed would afford protection from injury and death to members of the armed service.⁷

It is very evident, however, that civil legislation, however carefully worded and however conscientiously put into operation, can be circumvented by ingenious advertisers, who will use phraseology that is legally blameless but actually deceptive. Thus, the decision rendered in the case of the Northam Warren Corporation versus the Federal Trade Commission, tried before the United States Circuit Court of Appeals in 1932, contains this admission:

The Federal Trade Commission Act does not purport to establish a decalogue of good business manners or morals. . . . Even if a practice may be regarded as unethical, it would still be beyond the purview of the act if it lacks the public interest necessary to support the Commission's jurisdiction.⁸

Milton Handler, who compiled a large number of cases relative to trade regulation, made this remark:

The various ways in which the unwary consumer is duped by the dishonest advertiser have been exposed in recent years by the Federal Trade Commission, the Food and Drug Administration, the national and local better business bureaus, Consumers' Research and by private investigators. The prevalence of misrepresentation and adulteration no longer requires any demonstration. . . . It is apparent that the traditional actions of deceit and warranty as developed by the courts are of limited utility in any campaign against false advertising.⁹

A certain measure of exaggerated praise of one's own commodities on the part of salesmen is justifiable, and is supposed to be taken into consideration by prospective buyers. But it must be limited to very moderate proportions; no ethical principles can justify downright falsehood about the efficacy or the value of a product. From what has just been said about the inadequacy of legal measures to make advertising honest it follows that this objective can be attained only when we have honest advertisers—that is, business men who conscientiously apply the norms of veracity to their commercial activities. It would be idealistic to hope for a speedy and universal reform in this matter throughout our country; but we could endeavor to improve conditions as far as Catholic advertisers and salesmen are concerned. It would be quite practical for priests to emphasize this important point of morality occasionally in sermons and instructions.

LYING PROPAGANDA

One of the most despicable methods of deceiving the public is what is known nowadays as propaganda. True, propaganda can consist of the representation of facts, without any element of falsehood, though in a manner calculated to win the assent or approval of the hearers or readers. With this type of propaganda we take no issue; for in itself it is a perfectly lawful means of persuading people to follow a certain course of action. The political candidate who points out the praiseworthy deeds of his career in his effort to win the votes of the citizens is doing no wrong, provided his statements are correct. The efforts of Catholics to win converts by presenting the arguments in favor of the divine origin of their religion is a form of laudable propaganda. But as the term is frequently used today, propaganda is deception and distortion of facts on a national or international scale. A vivid description of this type of propaganda is found in the following passage by Howard D. Lasswell of the University of Chicago:

For the mobilization of national hatred the enemy must be represented as a menacing, murderous aggressor, a satanic violator of the moral and conventional standards, an obstacle to the cherished aims and ideals of the nation as a whole and of each constituent part. Through the elaboration of war aims the obstructive role of the enemy becomes particularly evident. The maintenance of hostility depends upon supplementing the direct representation of the menacing, obstructive, satanic enemy by assurances of ultimate victory, thus preventing diversion of attention. The preservation of friendly relations depends upon representing an allied nation as strenuously prosecuting the war and thus protecting common values. The ally must appear to assent heartily to the cherished war aims of the nation and to conform to all the mores.¹⁰

How a person with any concept of right and wrong can believe himself justified in spreading propaganda of this kind in a mystery. Yet, undoubtedly there are many who believe in all sincerity that the political and military benefits that can be obtained by such means remove all guilt from what is actually the cold-blooded deception of millions of persons. It is not pleasant to think that there may be Catholics among those who accept this application of the erroneous notion that a good end justifies the use of a bad means.

Many other examples of deception on a wide scale could be adduced; but those which have been here described suffice to prove that the virtue of truthfulness needs to be fostered in our land, particularly on the part of those whose statements are heard or read by a large number of persons. The leaders toward this necessary reform should be Catholics, who have the benefit of the Church's unfailing and unchanging teaching regarding the divinely imposed obligation of speaking the truth and the sinfulness of falsehood. The structure of society becomes weak and unstable when the members habitually neglect the virtue of veracity in their mutual associations, especially those of a public character. If we would make America a staunch, united nation, we must see to it that truthfulness is not merely a tradition but also a reality in our land.

NOTES TO CHAPTER VIII

¹ St. Thomas *Summa Theologica* II-II, q. 109, a. 3, ad. 1.

² B. Merkelbach, O. P., *Summa Theologiae Moralis* (Paris, 1938), II, n. 479, p. 499.

³ *Ibid.*, II, n. 429, pp. 445-47.

⁴ J. Aertnys, C. SS. R. and C. Damen, C. SS. R., *Theologia Moralis* (Turin, Rome, 1939), I, n. 931, p. 601.

⁵ Cf. *Annual Report of the Federal Trade Commission* (Washington: Government Printing Office, 1944), p. 22.

⁶ L. Lyon, "Advertising," *Encyclopedia of the Social Sciences* (New York, 1937), I, 473.

⁷ Cf. *Annual Report of the Federal Trade Commission* (1944), p. 28.

⁸ *Circuit Court of Appeals of the United States: Second Circuit* (1932), 59 F. (2d), 196.

⁹ M. Handler, *Cases and Other Materials on Trade Regulation* (Chicago, 1937), p. 718.

¹⁰ H. Lasswell, "Propaganda," *Encyclopedia of the Social Sciences* (New York, 1937), VI, 524.

CHAPTER IX

THE CATHOLIC LAWYER

The profession of a lawyer offers a career that is both honorable and lucrative. To one who is imbued with humanitarian ideals it affords abundant opportunity of assisting the poor and the needy to preserve their civil rights. The lawyer who guides his conduct by the principles of Christian faith regards his professional activities as a means of defending and proclaiming the unchangeable law of God, of which every just civil law is a participation. Some of those whom the Church has raised to the honor of the altars were lawyers, such as St. Ives, the patron of lawyers, and St. Thomas More, defender of the faith and martyr. More recent is Contardo Ferrini, who taught law in a secular university, and the cause of whose canonization is now in progress. Evidently, there is no incompatibility between an active and successful law career and an exemplary Catholic life.

However, there are lawyers who profess to be practical Catholics but who, in their professional activities, fail to measure up to the moral standards prescribed by their Church. We are not referring merely to those disreputable individuals who are known to be the protectors of gangsters and the abettors of dishonest transactions, and who themselves are only one step ahead of the law. Strange to say, even in this category of lawyers there are some who account themselves practical Catholics. Of course, they are a disgrace

to the Catholic Church. But we are concerned primarily with those Catholic lawyers who stay safely within the limits of legal immunity, who are in no danger of being disbarred or indicted by any human tribunal, and yet who transgress, at least occasionally, the ethical code laid down for them by Catholic theology. There are, indeed, mitigating circumstances for such conduct. These lawyers associate daily with men and women whose only rule of action is: "Don't get caught." A good proportion of these Catholic lawyers attended secular colleges and law schools, and never had any formal instruction in Catholic ethics. Their violations of Catholic principles are oftentimes entirely indeliberate. Yet, they should be familiar with the teachings of their Church pertinent to their profession and with the chief applications of these teachings to practical cases. For, in the moral debacle of the modern world it is Catholics who have the first responsibility to support the laws of God in their particular spheres of life. And priests who, whether as pastors or as confessors, have the spiritual care of lawyers, should consider it a duty to see that these men are properly instructed in their rights and obligations according to the teachings of the Catholic Church.

THE LAWYER IN CIVIL CASES

The cases in which the lawyer's services may be employed are, in general, either civil or criminal. By civil cases are meant those in which the acquisition or the retention of property is at stake or some civil right is being litigated. The first principle to guide the lawyer in reference to such actions is that he may not undertake a civil case which he knows to be unjust on the part of the one who seeks his serv-

ices. This principle holds even in the event that the lawyer is quite sure that the opposing party, though in the right, will not be able to prove his claim and will lose the case. When a lawyer is presented with such a case and has studied it sufficiently to assure himself that it is unjust, he must inform the prospective client of this fact and decline to prosecute it.

A civil case which is only probably just can be undertaken, and the lawyer can and should use all lawful means to establish the claim of his client. However, if in the course of the process it becomes evident that the client is entirely in the wrong, the lawyer must withdraw from the case. This teaching of Catholic theology is supported by the *Canons of Professional Ethics*, adopted by the Association of the Bar of the City of New York on December 13, 1938, which includes "when a lawyer discovers that his client has no case" ¹ as one of the reasons justifying the withdrawal of an attorney or counsel from employment once assumed. St. Thomas states the matter thus: "If in the beginning the lawyer believed the case to be just, and afterward in the procedure it becomes evident that it is unjust, he must not betray the case, in such wise as to help the other side, or to reveal the secrets of his case to the other party. But he can and must abandon the case or induce his client to yield or to compromise without injury to his adversary." ² This last phrase brings out the point that even a compromise with an opponent is unjust if it deprives him of something to which he certainly has a right, unless for the sake of a quick and final settlement of the matter he is quite willing to yield his right to this extent.

The Catholic moral teaching on the obligation of restitution should give the lawyer food for serious thought. For, according to this teaching, a lawyer who knowingly under-

takes an unjust case shares with his client the obligation of making restitution to all who in consequence suffer unjustly. This obligation extends not only to the portion of the unjust gains the lawyer himself may have obtained if he won the case, but also to the entire loss suffered by the injured parties, in the event that the client and others who have profited are unwilling or unable to restore their share. Again, the lawyer who, for personal gain, induces someone to prosecute a civil case which he (the lawyer) foresees will certainly be unsuccessful is bound by the law of God to make up to his client for the financial loss he thereby sustained if it is evident that his persuasion was the effective cause of the prosecution of the case. Similarly, the lawyer who unnecessarily prolongs a case, so that his fee will be larger, is bound to restore the amount that exceeds a reasonable stipend. Finally, if a case is lost because of the lawyer's culpable neglect in studying the pertinent legal points or in conducting the proceedings, the lawyer must recompense his client to the amount it is reasonably presumed the latter would have gained if the lawyer had done his duty.

It may happen that a lawyer, after having defended and won a case in all good faith, discovers that justice was certainly on the other side. In such an event he would be bound to restore only that portion of the unjust gain which he still has in his possession. This would be verified only in the supposition that what he received was given explicitly as a definite portion of the gain. If his earnings came as a fee from his client's own money, he could retain them, leaving to the client the obligation of making complete restitution.

In prosecuting suits for damages to person or to property the lawyer must be most conscientious. It is a sad reflection

on the standards of honesty prevailing nowadays that so many persons are ready to have recourse to every form of deception, and even to perjury, in order to be successful in establishing a claim for damages. There seems to be a notion, even among some Catholics, that it is permissible to use any means whatsoever to extort money from a large corporation, such as a railroad company or an insurance company. The honest Catholic lawyer, when requested to press a claim for damages that is evidently unjust, will not only refuse his services but will take occasion to give the petitioner a lecture on the virtue of justice.

The corporation lawyer who confines himself to expounding honestly and adequately to the members of the firm the points of law relative to their business transactions is not guilty of any sin if they utilize the information to transact dealings that violate the divine laws of justice and charity, but are not punishable by civil law, provided such transgressions are not too flagrant or too frequent. But if the lawyer discovers that his exposition of legal technicalities is being directed regularly toward an evil end—particularly one that involves many sins, as when the information helps to protect the company in its refusal to pay the workers a living wage, or to circumvent laws against the sale of birth-control devices—he must withdraw from his position, lest he be guilty of unjustifiable cooperation in these grave sins.

WILLS

In the matter of wills the Catholic lawyer should know that it is a mooted question among theologians whether or not a will which has all the requirements from the standpoint of the natural law but is invalid in the eyes of the civil

law is valid in the forum of conscience.³ Since the affirmative view is solidly probable, it can be followed in practice. Thus, if a dying man says to a friend: "John, I want you to have my watch when I am gone," John can take possession of the watch after the testator's death, even though there is no mention of this legacy in his written will. Of course, this presumes that the dying man knew what he was doing. On the other hand, the natural heir may lawfully make use of the opposite opinion which is also probable—namely, that the dispositions of the civil law take precedence over a will devoid of the legal requirements. Thus, in the case just given, the son of the deceased man, to whom the legal will gives all his father's personal property, may invoke the law to gain possession of the watch, even though he knew his father actually wished it to go to his friend, but did not record the legacy in a proper legal document.

Similarly, a written will which is technically defective is not binding on the natural heir, who may seek to have it declared invalid by the court if he could profit by such a procedure; and a lawyer may collaborate in such an attempt within the limits of honest means. A case would be this: The deceased left most of his property to a distant relative, and the son of the deceased is trying to have the will invalidated. If the son's lawyer can discover that some requirement of law was omitted when the will was drawn up, he may, with a safe conscience, seek to have it annulled on this score, so that the procedure for one who died intestate will be followed.

However, there is one exception to these rules. According to Canon Law: "In last wills in favor of the Church, let the formalities of civil law be observed, if this can be done; if these have been omitted, let the heirs be admonished to

fulfil the will of the testator." ⁴ Hence, if it is evident that the deceased willed that a portion of his estate should be used for the erection of a mission chapel, a burse for a seminary, etc., his wishes must be observed in conscience by his heirs, even though the mode by which he expressed this legacy was not a formal will, recognized by law. A Catholic lawyer who is serving in a case of this nature is ordinarily bound, by charity and loyalty to the Church, to remind the heirs of their obligation.

THE CATHOLIC LAWYER AND DIVORCE CASES

May a Catholic lawyer undertake a divorce case? Generally speaking, the answer must be in the negative. As was stated above, a Catholic judge is usually permitted to pronounce a decree of divorce according to the civil law when a case is presented to him which he cannot avoid without grave inconvenience.⁵ But it is a different matter with a lawyer, who is free to accept cases or to refuse them. If the divorce is being sought for a marriage that is invalid in the eyes of God, such as the civil marriage of a Catholic, the lawyer may accept the case, particularly if the objective of the party seeking the divorce is to prepare the way for a lawful Catholic marriage. Again, if a lawyer has sufficient assurance that a civil divorce is being sought from a valid marriage merely to protect one of the parties from molestation or to secure a financial settlement, and there is no danger of an attempted remarriage by either party, he may take the case. However, this presupposes that he will thereby cause no scandal. Moreover, the Catholic lawyer should know that the Third Council of Baltimore forbids Catholics in the United States to approach the civil court for the purpose of

obtaining a separation *a thoro et mensa* (from bed and board), without first consulting the ecclesiastical authorities.⁶ It would be the proper thing for a Catholic lawyer to bring this legislation to the notice of a Catholic seeking his services for the introduction of a suit for a civil separation.

However, the ordinary divorce suit in this country is simply a preparatory step toward a forbidden remarriage. Accordingly, apart from the cases mentioned in the previous paragraph, the Catholic lawyer must practically always refuse to prosecute a petition for divorce, even though the parties involved are non-Catholics, presumably believing in good faith that their marriage can be dissolved. Some theologians argue that, since it is precisely the remarriage rather than the divorce that is intrinsically wrong, a lawyer could be justified in accepting a divorce case for a very grave reason—for example, if he were in dire financial straits, and this case offers the only avenue of relief.⁷ But even this exception would not hold if the danger of scandal were present—which is usually the case when a Catholic lawyer is defending a suit for divorce, above all if the party seeking the divorce is a Catholic.

THE LAWYER IN CRIMINAL CASES

The general principle governing criminal trials is that the accused has a right to be free from punishment until he is proved with moral certainty to be guilty. Accordingly, the lawyer for the defendant, even though he knows that his client committed the crime with which he is charged, can lawfully utilize all objectively honest means to avert the verdict of guilty. In other words, he can point out gaps and inconsistencies in the evidence adduced by the prosecutor, emphasize facts that would seem to indicate that the accused

could not have been at the scene of the crime, relate instances that picture the defendant as a person of integrity, try to invalidate the indictment on legal grounds, etc. Of course, he may not employ perjury, or induce witnesses to lie on the stand. But, as long as he confines himself to facts that are objectively true, he may present them in such a manner that the jury will be inclined to render a verdict of not guilty.

If a witness for the defence, without the foreknowledge or connivance of the lawyer, gives false testimony, the lawyer has no obligation to point out the perjury. When it comes to the summing up of the evidence, however, he would be in a difficult situation, especially if the false statement had a vital bearing on the case. In any event, he could not propose the perjured testimony as something which he himself regards as true. At most, he could assert that the witness has made the statement in question, and then draw a hypothetical conclusion, somewhat after this fashion: "John Smith testified that he saw the accused in New York at 7 o'clock on the evening of the crime. If the defendant were in New York at that time, he could not have committed the crime of which he is accused." It must be admitted, however, that this solution stretches casuistry close to the breaking point.

PROFESSIONAL SECRECY

The lawyer is bound to observe the most exacting type of secrecy, professional secrecy, regarding what he has learned from his client in the discharge of his professional duties. However, there are times when a lawyer would have the right and the duty to reveal information acquired in this way—namely, when otherwise some grave harm would happen to society or even to some individual. This is especially

the case when the lawyer discovers that his client is planning to commit a crime. It may be that the client is gravely incensed at someone who testified against him at the trial, and intends to give him a severe beating. In this supposition the lawyer would be obliged in charity to prevent this wrong by warning the individual in question or, if necessary, the police authorities. Similarly, if a lawyer finds out that the man whom he is defending on the charge of robbery has a large amount of stolen property hidden in a certain place, he should reveal this fact, so that restitution may be made, if he cannot persuade the thief to return the plunder. It must be remembered that the retention of stolen property is just as truly a crime as the actual stealing. Bearing this in mind, we can see that the *Canons of Professional Ethics* of the Association of the Bar of the City of New York agree on this point with the teachings of Catholic theology: "The announced intention of a client to commit a crime is not included within the confidence which he (the lawyer) is bound to respect. He may properly make such disclosures as may be necessary to prevent the act or protect those against whom it is threatened."⁸

The lawyer's fees must be reasonable, according to the standards employed by men of integrity in this profession. A client's ability to pay does not justify an excessive charge. On the other hand, a good Catholic lawyer will reduce his fee in the case of persons of limited resources. Indeed, like every other professional man, the lawyer is obliged in charity to give his services gratuitously to those in need of them provided he can do so without a relatively grave inconvenience.⁹ When he is assigned by the court to defend an impoverished prisoner, he should give this unfortunate individual the same service he would render to a wealthy client.

"A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf."¹⁰

It requires considerable self-sacrifice, and at times heroism, particularly in the materialistic and immoral atmosphere of present-day America, for a Catholic lawyer to be consistent with all that Catholic theology prescribes for men of his profession. But every Catholic lawyer should realize that by conscientiously observing the rules of professional conduct that his religion points out to him he will reflect credit on his Church and will promote the causes of justice and of honesty, which are so necessary for the preservation of our nation.

NOTES TO CHAPTER IX

¹ "Canons of Professional Ethics," n. 44. Cf. *The Association of the Bar of the City of New York* (Year Book, 1941), p. 164.

² St. Thomas *Summa Theologica* II-II, q. 71, a. 3, ad. 2.

³ A. Tanquerey, *Synopsis Theologiae Moralis* (Paris, 1937), III, n. 675, pp. 326-27.

⁴ *Codex Juris Canonici*, Can. 1513, 2.

⁵ Cf. Chapter III, p. 31.

⁶ *Acta et Decreta Concilii Plenarii Baltimorensis Tertii* (Baltimore, 1886), n. 126, pp. 64-65.

⁷ H. Noldin, S. J. and A. Schmitt, S. J., *Summa Theologiae Moralis* (26th ed.; Innsbruck, Leipzig: F. Rauch, 1940), III, n. 672, p. 682.

⁸ "Canons of Professional Ethics," n. 37. Cf. *The Association of the Bar of the City of New York* (Year Book, 1941), p. 162.

⁹ A. Tanquerey, *op. cit.*, III, n. 999, p. 514.

¹⁰ "Canons of Professional Ethics," n. 4. Cf. *The Association of the Bar of the City of New York* (Year Book, 1941), p. 151.

CHAPTER X

THE CATHOLIC DOCTOR

The medical profession in many respects resembles the priestly vocation. The doctor, like the priest, has embraced a career directed to the welfare of his fellow men. The doctor is interested primarily in their physical health, the priest in their spiritual well-being; but since there is an intimate relation between body and soul, the functions of doctor and priest, properly fulfilled, are mutually beneficial. The conscientious doctor, like the devoted priest, is prepared to sacrifice his comfort, his recreation, his health, and in cases of extreme necessity even his life whenever duty demands such sacrifices.

A doctor should ever bear in mind the dignity and the importance of the task of caring for the human body. A certain measure of respect and admiration for the body, as a marvelously fashioned and beautifully functioning specimen of animal life, is possible even on the part of an atheistic physician. But only a doctor who is firm in the conviction that the body whose ills he is treating is the dwelling place of an immortal soul imaging God Himself can be fully impressed with the exalted nature of his profession. And the highest appreciation of the sacred dignity attached to the medical calling is found in the doctor possessing a strong Catholic faith, who regards the human body as the temple of the Holy Spirit, sanctified by the sacraments, destined ultimately to a glorious resurrection and to immortal bliss in heaven.

An attitude of this kind toward the medical profession is to be expected of those doctors who have made their studies in a Catholic medical school. But unfortunately the great majority of the Catholic doctors in the United States have received their professional training in secular institutions. This means that the lectures to which they listened were very probably impregnated with crass materialism. Practices opposed to the natural law, such as contraception and "therapeutic abortion" were presented to them as normal procedures, which any sensible physician will recommend in certain circumstances. Perhaps even the teaching of the Catholic Church on these matters was held up to ridicule in the classroom, as a relic of medieval ignorance. At any rate, these doctors were never urged to devote themselves assiduously to their professional practice by motives drawn from the sublime destiny of the human body or from the doctrine that every human being is an actual or a potential member of the Mystical Body of Christ.

THE DOCTOR'S NEED OF ETHICAL KNOWLEDGE

It is therefore of vital importance that our Catholic doctors be thoroughly instructed in the principles of their religion bearing on medical practice. It is an undeniable fact that some Catholic physicians and surgeons, in perfect good faith, resort to measures that are gravely sinful according to Catholic moral teaching. I have heard of cases of Catholic doctors who, on the occasion of an operation, tied up a woman's perfectly healthy fallopian tubes in order to save her the inconvenience of future pregnancies, and apparently never doubted the lawfulness of this procedure.

Priests who have doctors among the faithful committed to

their pastoral care should be mindful of their obligation in conscience to provide these men (or women) with adequate instruction on their professional duties. If a considerable number of doctors reside in a parish a special study club for them is in order, and open discussion of the problems they encounter in their field should be encouraged. If, for some reason or other, this method is not feasible, the pastor should provide his parishioners of the medical profession with individual instruction, at least by presenting them with useful books, such as *The Catholic Doctor*, by Bonnar, O. F. M., or *The Handbook of Medical Ethics*, by La Rochelle, O. M. I., and Fink, C. M. The confessor of a doctor has a grave duty to see to it that his penitent is sufficiently familiar with the ethical principles pertinent to his practice. It could hardly ever happen that a confessor could allow a doctor to remain in good faith, when this latter is habitually employing some unlawful method of treatment, without realizing that it is wrong. For, since such a practice would usually be detrimental to the common good and would be the occasion of scandal, it would constitute one of the cases in which a penitent may not be left in good faith, even though it is very doubtful that the admonition will be heeded.¹

PROBLEMS OF PREGNANCY

One of the most complicated problems in medical ethics concerns the lawfulness of operating on a pregnant woman before the child she is carrying is viable. The ethical principles bearing on the case are quite clear and simple:—It is never allowed to perform an operation which has for its only immediate effect the removal or the killing of the fetus, because such an act is the murder of an innocent person—a

grave sin, even though the motive is the saving of another person's life. But for a sufficient reason (the preservation of the woman's life) an operation may be performed which will directly remedy an acute diseased condition of the mother, even though the death of the child follows as an indirect effect. However, the application of these principles is sometimes quite difficult because of the complicated factors involved. Thus, some theologians believe that in the event of tubal pregnancy, the removal of the tube (entailing the death of the fetus) is not permitted unless it can be proved in each individual case that a pathological condition of the tube is present which puts the woman in imminent danger of death.² Others hold that whenever a tubal pregnancy exists, an operation to remove the tube is allowed, even though the danger to the woman is not yet imminent, because a pathological condition of the tube is always present which constitutes a grave danger to life.³ The recent findings of medical science would seem to render this second view sufficiently safe to be followed in practice.

There are some doctors—and perhaps among them are some Catholics—who attempt to palliate the ejection of a fetus in the early stage of its existence by asserting that during the first weeks of pregnancy the fetus does not possess a rational soul. Indeed, some Catholic scholars have favored the view that the infusion of the spiritual soul takes place only six weeks or longer after impregnation. Nevertheless, whatever may be thought of the scientific value of this opinion, it cannot be regarded as tenable with respect to the sinfulness of abortion. Every direct abortion is regarded by the Catholic Church as murder, however immature the fetus may be, and is penalized by the Church with the censure of excommunication.⁴ A practical application of this principle is the case of

a girl who has been raped. Although it is a soundly probable opinion that measures may be taken to remove the semen of the attacker from her body, it would be gravely sinful to give her any form of treatment which even probably would eject an impregnated ovum.

When a Catholic doctor is asked by a woman who fears that she is pregnant to give her a medicine that will terminate the possible pregnancy, may he give her a harmless drug, leaving her under the impression that he is satisfying her wishes? Some Catholic doctors have this custom, alleging that in this wise they prevent her from going to a doctor who would take actually abortive measures. However, I am inclined to believe that the scandal of even an apparent co-operation in so grave a sin would be so serious that a Catholic doctor, approached in this manner, must state explicitly that he will do nothing to bring about even a probable abortion.

THE OBLIGATION TO BAPTIZE

The moral principles relative to abortion and to operations entailing the death of a fetus are known to most Catholic doctors, but there are other principles with which many are not so familiar. For example, there is an obligation by the divine law of charity to baptize any child in imminent danger of death. However, since there is also a sound principle that charity does not bind when a graver evil might follow, a doctor would not have to confer baptism when it is foreseen that by so doing he might arouse hostility against the Catholic Church or Catholic institutions. The doctor should be familiar with every detail of the baptismal ceremony and should observe meticulous care in conferring this sacrament. He must see to it that the words are said *while* the water is

being poured, that they are audible (at least to himself), and that he has no condition regarding a further contingency, such as: "I intend to baptize only if the child is going to die" or "I intend to baptize only if the priest will not arrive in time to give the sacrament." In the case of intra-uterine baptism, the water must be poured, if at all possible, on the head. And, no matter how certain it may seem that this has been successfully accomplished, the sacrament must be repeated conditionally after birth, as long as the child's head had not emerged at the time of the former baptism.⁵

In the matter of baptism there are two cases even a well-instructed doctor is likely to overlook. The first is the case of miscarriage or the ejection of a fetus as an indirect effect of an operation. If there is any probability that the fetus is alive, it should be baptized, no matter how immature it may be. The most practical method, in the case of a very small fetus, might be total immersion, while the baptismal formula is recited. The membranes or the tube enclosing the fetus should be broken sufficiently to allow the water to flow on the skin.⁶

The other case arises after the death of a pregnant woman. Of course, if the child is viable, all doctors would agree, even independently of religious considerations, that a Caesarian operation should be performed so that the infant may have a chance for a normal life-span. But even when the fetus is quite immature, Catholic principles call for a Caesarian section on the dead mother, so that the sacrament of baptism may be administered to the child. Since this is an obligation of charity only, not of justice, and since there is almost always grave reason to fear that the fetus is already dead, a doctor would not be obliged to incur serious inconveniences in consequence of this procedure, such as the risk of a civil suit from

the relatives of the dead woman, which might result in his exclusion from professional practice. When a doctor foresees the approaching death of a patient who is with child, he should try to secure the permission of her husband, or of some other responsible member of her family, to perform the Caesarian operation as soon as she passes away.

A fetus that has been baptized should be buried in consecrated ground. When the mother also has died, the infant is most appropriately buried with her, whether it has been baptized or not. Even an unbaptized fetus should be buried, not cremated; and the same is true of amputated members of the body.⁷ The indiscriminate use of cremation in hospitals today is an insult to Christian decency, and doctors attached to a hospital staff should try to remedy this abuse.

THE OBLIGATION TO PRESERVE LIFE

The doctor is bound by the law of God, as well as by his Hippocratic oath, to preserve the life of a patient as long as is reasonably possible. This means that ordinary measures must be employed even in the case of one who will continue to be, naturally speaking, merely an unprofitable burden on society. If the child whose physical constitution is so defective that he will grow up to be a drivelling idiot is seriously ill with pneumonia, the physician must employ the most effective remedies he knows in order to cure him, provided they can be reckoned as ordinary means. There is no obligation to use extraordinary remedies to preserve a life so hampered. Thus, if this child needed a very difficult and delicate operation, which only a specialist could perform, in order to prolong its life, there would be no obligation on the parents or on the doctor to provide such an operation.

Similarly, there is no obligation to have recourse to some very unusual and expensive treatment or to a very painful operation (such as the amputation of a limb) to gain a brief prolongation of life for an elderly person.

On the other hand, no doctor may ever deliberately and directly accelerate death in the case of a dying person. However painful may be the patient's condition, however burdensome he may be to his family, it would simply be murder to give him a drug with the direct intention of hastening his passage from this world. At most he could be given an analgesic if his condition calls for it, which while directly conducing to relieve the pain, might have, as an indirect effect, the lowering of resistance and consequently an acceleration of death. But, even in the use of a pain-killing drug an important point must not be neglected. The sick person should not be rendered unconscious in the hours immediately preceding death unless the pain is well-nigh unbearable—and even then, it would be wrong to deprive him of consciousness before he has had an opportunity of preparing his soul for eternity. For, the final hours are a time of great merit, when the dying person should have the use of his faculties as far as possible, that he may make himself ready to meet God. It is in these hours that the departing Catholic is encouraged and consoled by the beautiful prayers that the Church has appointed for that solemn occasion.

WARNING THE PATIENT OF DEATH

A deplorable pagan custom is in vogue among many doctors today—the custom of deceiving their patients about their condition so effectively that they slip out of life without realizing that they are dying. Some doctors regard it as a

proof of their professional skill to be able to keep up a false hope in a dying patient to the very end. Unfortunately, some Catholic doctors have adopted this practice, at least to the extent of deceiving the sick person and the members of the family so long that the priest is not called until the last agony has begun. No condemnation is too severe for a Catholic doctor who would be so neglectful of the salvation of an immortal soul. As soon as there is danger of death the Catholic doctor attending a Catholic patient is bound to inform the members of the family, so that the spiritual needs of the sick person may be provided for; and if the admonition is unheeded, the doctor has the obligation to summon the priest himself. In the case of a non-Catholic, too, the doctor is bound in charity to see that in some way the suggestion is made to the dying person that he prepare his soul for the supreme moment on which his lot will depend for all eternity.

PROBLEMS CONCERNING SEX

Problems relative to sex are frequently presented to doctors nowadays. As is very evident, a doctor is never allowed to recommend any form of contraception, nor to furnish chemical preparations or instruments for this vile practice. This applies to non-Catholic as well as to Catholic patients, for the prohibition of contraception is a law of God binding all human beings, not a mere act of ecclesiastical legislation for Catholics only. If a doctor sincerely believes that a woman cannot safely have more children, either permanently or for a time, he can inform her that pregnancy would be dangerous, leaving it to her conscience to choose the lawful course of abstinence in preference to sinful means. If, however, he has reason to believe that a married couple in such

circumstances can be persuaded to employ periodic continence (the "Rhythm") in place of contraception, he should explain this method and its application to their particular conditions. For this purpose, the Catholic doctor should familiarize himself with the most recent data on this system, which originated with Doctors Ogino and Knaus. At the same time, the physician should realize that this system should not be regarded as a "Catholic birth control method," that even the "Rhythm," though it involves no positive physical abuse of marriage, can nevertheless constitute a sin of selfishness and a violation of legal justice, if practiced for a considerable time without a sufficient reason.⁸

The question of artificial fertilization is sometimes brought to the doctor by a husband and wife who desire children. If the difficulty consists merely in the fact that in their relations it is found to be impossible to deposit the semen far enough within the vagina to effect pregnancy, it is perfectly lawful for the physician to use a syringe, after the couple have had relations, in order to force the semen deeper into its proper place. But if artificial fertilization is taken to signify that the husband commits pollution and that then the semen is injected into his wife's vagina, it must be condemned as sinful. It is a matter of discussion among theologians whether it is permitted to a doctor with the aid of a needle to extract semen directly from the husband's *epididymis*, and then place it in the wife's vagina.⁹

However, the term "artificial fertilization," as used nowadays, usually refers to the case of impregnation with semen provided by a donor, a man who is not the woman's husband. It is said that there are thousands of children in our country today who owe their existence to this manner of insemination, and yet are commonly believed to be the sons or daughters

of the man who is the husband of their mother. The donor procures the semen by masturbation, and the transfer is effected in such wise that the woman and the donor never see each other. The statement has been made that medical students often serve as donors. Of course, there is remuneration for each "donation."

No Catholic doctor can cooperate in effecting artificial insemination of this type if he wishes to be consistent with the teachings of his Church. For this process involves the grave sins of pollution and adultery. At least, the specific guilt of adultery, the transfer of semen from a man to a woman who is another man's wife, is present in this revolting procedure, even though there is no direct physical union. Our Catholic doctors should realize that a practice such as this is a manifestation of the paganism that permeates present-day society in the United States, tending to degrade human beings to the status of cattle.

Sometimes a doctor is requested to examine the semen of a man to discover if he is sterile or not, and in the event that he does suffer from some form of sterility to find if it can be remedied. The question naturally arises: How may a specimen of the semen be obtained without violation of the law of God? It is unquestionably immoral for the man to masturbate for this purpose, although the average non-Catholic doctor today would not hesitate to prescribe this procedure. According to the Catholic interpretation of the natural law, a deliberate act of pollution is intrinsically wrong, and an intrinsically evil act may never be performed, no matter how praiseworthy the purpose to which it is directed. This doctrine is corroborated by an explicit declaration of the Holy Office, given August 2, 1929.¹⁰ It would seem that the only certainly lawful methods of obtaining a specimen would be

to wait until that period of time has passed after which a woman may lawfully use a douche for the direct removal of semen from the vagina (that is, at least an hour after intercourse) and then to take a specimen from what remains in the vagina, or to utilize what may have been accidentally (that is, not of direct purpose) deposited outside the vagina at the time of relations.¹¹

OTHER PROBLEMS

What should be the procedure of a physician who, in the course of his professional practice, discovers that a young man, preparing for marriage, is suffering from a contagious form of venereal disease? Evidently there is a conflict between the obligation of preserving professional secrecy and the duty of protecting the prospective bride from a loathsome ailment. Of course, if the patient can be persuaded to abstain from marriage, or at least to inform his fiancée of his condition, the doctor's responsibility in the matter ceases. There has been some disagreement among theologians as to the procedure the doctor should follow in the event that the young man intends to go ahead with the marriage, leaving the girl in ignorance of the danger to health in which she is going to be placed. However, the better theological opinion seems to be that in such circumstances the doctor may (and perhaps even must) warn the girl, even though it involves the violation of the professional secret.¹²

Sometimes a doctor who has made studies in a special field believes that he may have discovered a new remedy for a certain disease, more effective than any hitherto employed. He is anxious to experiment with this remedy, yet he realizes that the element of chance must be considered. There is some probability that the experiment may prove a failure, that

his discovery in reality kills rather than cures. He is called to attend a person suffering from the disease in question. Should he employ the standard remedies which have been proved to possess some efficacy, or may he experiment with his own discovery, in the hope that it will be more effective, yet with some fear that it may do grave harm? He might be tempted to argue that the knowledge he will derive from a test case will be so valuable to mankind that it will compensate for the risk to the individual patient's life. But such a mode of argumentation is a fallacy, according to Catholic principles. His immediate duty to the patient demands that he use the remedy which offers greater probability of success, even though there is some probability that the other measure will actually prove more efficacious. Only in the supposition that he can honestly say that his discovery has at least as much probability in its favor as the recognized methods of treatment is he allowed to make the experiment.

The use of hypnotism to benefit the physical or nervous condition of a patient is permitted at times, provided that due precautions are employed so that greater harm may not be done. Perverse inclinations to alcoholism or impurity are sometimes lessened by this form of psychological treatment, practiced by a skilled hypnotist. But the doctor must be on his guard against any abuse of this procedure, particularly in dealing with women patients. The same principles apply to the modern process of narcotherapy. It is never allowed to use these practices on a patient possessing the use of reason unless he himself consents to the treatment.

It is not easy in the materialistic world of today for a Catholic doctor to be staunchly consistent in following the principles of his religion. But he will find aid from on high if he leads a practical Catholic life, and particularly if he

receives the sacraments frequently. And he should strive to vivify his professional activities with a supernatural spirit. When he enters the sickroom, he will try to have in his heart the sympathy and the affection which the Divine Physician bestowed on the suffering men and women who thronged about Him twenty centuries ago. In the spirit of Christ, the Catholic doctor will be solicitous for the souls of his patients as well as for their bodies. He will readily endure hardships, sacrifices, danger for those to whose assistance he is summoned, confident that he is thus rendering himself worthy of the consoling assurance: "As long as you did it for one of these, the least of my brethren, you did it for me."¹³

NOTES TO CHAPTER X

¹ J. Aertnys, C. SS. R. and C. Damen, C. SS. R., *Theologia Moralis* (Turin, 1939), II, n. 438, pp. 296-97.

² J. O'Brien, "Ectopic Gestation," *The Ecclesiastical Review*, 105 (1941), pp. 95-103.

³ H. Davis, S. J., *Moral and Pastoral Theology* (New York, 1938), II, 174-82. Cf. T. Bouscaren, S. J., *Ethics of Ectopic Operations* (Chicago: Loyola University Press, 1933).

⁴ *Codex Juris Canonici*, Can. 2350, 1. Cf. J. Huser, O. F. M., *The Crime of Abortion in Canon Law* (Washington: The Catholic University of America, 1942), pp. 79 ff.

⁵ *Codex Juris Canonici*, Can. 746.

⁶ S. La Rochelle, O. M. I. and C. Fink, C. M., *Handbook of Medical Ethics* (Montreal: Catholic Truth Society, Westminster, Md.: Newman Bookshop, 1943), pp. 218-20.

⁷ *Ibid.*, pp. 221-22.

⁸ O. Griese, *The Morality of Periodic Continence* (Washington: The Catholic University of America, 1942).

⁹ H. Noldin, S. J. and H. Schmitt, S. J., *De Sexto Praecepto* (30th ed.; Innsbruck: F. Rauch, 1938), n. 77, pp. 82-83.

¹⁰ *Acta Apostolicae Sedis*, 21 (1929), p. 490.

¹¹ J. Clifford, S. J., "Sterility Tests and Their Morality," *The Ecclesiastical Review*, 107 (1942), pp. 258-67.

¹² R. Regan, O. S. A., *Professional Secrecy in the Light of Moral Principles* (Washington: The Catholic University of America, 1943), p. 145.

¹³ *Matt.* 25 : 40.

CHAPTER XI

THE CATHOLIC NURSE

The Gospel relates that on many occasions our Blessed Lord wrought wondrous miracles for the benefit of those afflicted with bodily ailments. Through the soothing touch of His gentle hand the blind were restored to sight, and the palsied were made whole, and the lepers were cleansed of their loathsome malady. In several instances, He even summoned back to a lifeless body the soul that had taken its flight to eternity. Evidently Christ considered bodily health to be something desirable, something which one lawfully, and even laudably, can strive to preserve in its full vigor, and to restore when it is impaired. Thus, the Son of God gave divine sanction to the art of healing, and imparted a divine blessing on all who would devote their lives to the task of conquering disease, and of relieving the sufferings of the sick and the dying.

However, our Blessed Saviour made it very clear that health of soul is far more important than health of body. The miracles which He performed for suffering men and women were primarily intended, not to add a few years of happiness to their brief span of earthly life, but rather to turn their hearts to God, and thus to induce them to strive for the unending happiness of the life beyond the grave. In all His teachings Christ emphasized the primacy of spiritual values; He proclaimed unequivocally that all the

goods of this world—which would, of course, include bodily health—are of secondary value compared to the attainment of man's final goal, the salvation of his immortal soul.

The Catholic nurse must keep before her eyes this all-important lesson taught by the Son of God. She may not limit the scope of her care and solicitude to the bodily needs of her patients. She must, of course, strive conscientiously and efficiently to relieve their sufferings and to restore them to health; but she must ever bear in mind that their spiritual welfare also is her concern. When they manifest toward her that candor and confidence that are so frequently exhibited by the sick toward those who take care of them, she must be prepared to direct their thoughts toward God and eternity, particularly when she realizes that death is not far off. Above all, the Catholic nurse must be convinced that no consideration of temporal advantage can ever justify the violation of the principles of faith and morality. There may be occasions when loyalty to the teachings of the Catholic Church will entail sacrifice and material loss; but if she is a practical Catholic she will not hesitate to endure these hardships, bearing ever in mind the solemn warning of Jesus Christ: "What does it profit a man if he gain the whole world, but suffer the loss of his own soul?"¹

It is vitally important, therefore, that the Catholic nurse be fully acquainted with the Catholic principles concerning the problems of religion and morality that are likely to arise in the course of her professional duties. Such knowledge is all the more necessary today, when Catholic teachings on these matters are so generally rejected and ridiculed in medical circles. For if the Catholic nurse is not well-grounded in the Church's doctrines, she runs the risk of accepting this anti-Catholic attitude, at least to the extent of regarding

religion and morality as something unimportant, something detached from the practical phases of her profession.

Some of the chief religious and moral problems which the nurse must expect to encounter will be discussed under five general headings:—first, Baptism—second, the care of the dying—third, operations which endanger or destroy the life of an unborn child—fourth, birth control—fifth, professional secrecy.

BAPTISM

It is a truth of Catholic faith that the sacrament of Baptism has been established by Christ as a necessary means of salvation. An unbaptized person who has attained to the use of reason can indeed make an act of love of God or of perfect contrition and thus obtain the state of grace and even eternal salvation if through no fault of his own he failed to receive the sacrament. But for the child below the age of reason, unable to elicit any rational act, the baptism of water is the one means of entering the kingdom of heaven, apart from the rare occurrence of martyrdom for the Christian faith or some other Christian virtue, which is an extraordinary means of salvation both for children and for adults.

The Catholic nurse must therefore be prepared to administer Baptism when circumstances call for it—that is, when an infant is in grave danger of death and the ministrations of a priest cannot be procured. The conferring of this sacrament demands very little—merely the pouring of ordinary, unblest water on the head of the recipient, while the one pouring the water says in a tone that is audible at least to herself: “I baptize thee in the name of the Father and of the Son and of the Holy Ghost.” A very simple ceremony—yet there are many possibilities of modifications or

of omissions which would render it null and void. For example, if the water was applied in such small quantity that it merely moistened the skin and did not flow, or if it touched only the hair and not the skin, or if the words were pronounced, not *while* the water was being poured but *beforehand* or *afterward*, or if there were some defect in the formula, as in the supposition that one would say: "I baptize in the name of the Father, etc.," omitting the single word "thee," or if one person poured the water while another said the words—such circumstances, small though they may seem, would render the sacrament invalid and worthless, or at least of doubtful value.

When a lay person baptizes, he should be careful not to have what is known as a conditional intention depending on a future event—that is, the intention of conferring the sacrament only on condition that the priest will not arrive in time, or only on condition that the child is going to die. A condition of this nature would make the sacrament null and void. Hence, whenever one baptizes, he should abstract entirely from such future contingencies and intend to give the sacrament absolutely, irrespective of whether or not the priest will come before the child dies, or whether or not the child will die.

The Catholic Church, in its official code of legislation, makes a provision for the baptism of a child in its mother's womb, and lays down detailed direction concerning this matter. This measure should be resorted to only when there is little hope that the child will be born alive. In regard to the method little need be said, except that ordinarily the water should be applied with a syringe or a sponge, and an effort should be made to have the water flow on the child's head while the requisite words are being pronounced. It is

interesting to note in passing that the Church has expressly ruled that in cases of this kind the water to be used for Baptism may be sterilized by the addition of a small quantity of bichloride of mercury.² In the event that a child who was baptized while entirely in its mother's womb is born alive, the sacrament is to be repeated conditionally, because the difficulties attending the previous administration always render it somewhat doubtful whether or not all the requirements for Baptism were fulfilled.³

THE CARE OF THE DYING

The most important and the most solemn event in life is death. According to Catholic belief, at death the immortal soul leaves the body to appear before its Creator and to receive from Him the sentence of eternal reward or of eternal punishment. If the soul, when it departs from this world, is in sanctifying grace, it will be saved; if it is in mortal sin, it will be lost. Hence, it is vitally necessary that one about to pass into eternity should have an opportunity of preparing for that momentous event. Such, in brief, is the Catholic attitude toward death; and it is quite different from the ideas that prevail so commonly outside the Church today. The chief objective of many who stand beside a deathbed nowadays is to conceal from the dying person the fact that his life is ending. And so, they lie to him, they persuade him that there is no immediate danger, they induce him to neglect the all-important business of his eternal salvation, and undoubtedly they are sometimes responsible for his failure to prepare to meet his God. The Catholic nurse cannot in conscience cooperate in such pagan practices. There are times, indeed, when circumstances do not permit her to do

much that is of positive efficacy toward preparing a patient for death, but at least she can abstain from cruelly deceiving him in regard to his condition. There are also many occasions when the nurse can give positive help, and when even a few words from her will turn the thoughts of the dying person to what lies beyond the grave. Especially when the patient is a Catholic must the nurse regard it as a matter of duty to see that he does not die without the sacraments, and she should not hesitate to recommend that he receive the rites of the Church if the members of his family neglect to give this warning. Charity also dictates that persons of other religious belief, nearing the moment of death, should be informed of their true condition. It is not necessary, indeed, to tell a dying person bluntly that he can live only a short time; but at least it can be gently stated that his recovery is doubtful. And, whatever may be the patient's religious tenets, the nurse should recite at least a few brief prayers with him if this is possible and there is no one else to perform this deed of mercy. The prayers on such an occasion should include the essential features of the acts of faith and love of God and especially perfect contrition for sin. Printed cards can be procured containing the prayers which a Catholic can recite with a dying non-Catholic, particularly a Christian, without infringing on his own sincere convictions in religious matters.

Catholics believe that in the last moments of life the soul often receives extraordinary graces, marks of God's special love for a creature made to His own image and likeness. Accordingly, it is not the proper thing to drug a dying person into unconsciousness, so that he may have no realization of his passing, particularly if there is reason to believe that he is unprepared for death. Here we have another contrast

between the Catholic attitude and that prevalent outside of the Church, according to which the dying person should be eased out of life with the least possible anxiety. Of course, if the patient is in great pain and his spiritual needs have been provided for—which, in the case of a Catholic, means that he has received the sacraments—a drug for the primary purpose of deadening the pain is permitted, even though the consequence may be that the dying person is unconscious in his last hours. These matters are generally in the doctor's hands, yet the Catholic nurse should be familiar with the principles of the moral law and see that they are applied when she can do so. It should not be necessary to state—though in view of the spirit of paganism that permeates modern medical practice it must be stated—that the use of any means directly intended to accelerate death, no matter how hopeless the case may be and no matter how intense the patient's sufferings, is nothing less than murder, the usurpation by a creature of the power of life and death which belongs to the Creator alone.

Sometimes the Catholic nurse is confronted with the problem of the baptism of a dying adult, who either certainly or probably has never received this sacrament; hence, she should be familiar with the Catholic principles applicable to such circumstances. One who has come to the use of reason cannot validly receive Baptism—or, in fact, any sacrament—unless he has the intention of receiving it. The intention need not be elicited at the actual time of the administration; it suffices that it be made previously, so that even if the person is now deprived of the use of reason, the sacrament can be conferred. From this it follows that, on the one hand, a nurse would not be justified in baptizing a dying adult (and by adult is meant anyone who has attained the age of reason)

unless this person had given some indication of the wish to receive Baptism; but, on the other hand, the fact that such a person is now unconscious is no obstacle to the administration of the sacrament. It is well to remember, moreover, that the intention of receiving Baptism need not be explicit. For example, a man who had expressed some interest in the Catholic religion or had asserted that some day he might become a Catholic could be baptized if he were suddenly stricken unconscious and were in serious danger of death, on the reasonable supposition that he has an implicit intention of receiving Baptism. Indeed, in the case of one deprived of the use of his senses and on the verge of death, the mere fact that he had led a good life, with manifest desire to serve his Creator faithfully, might sometimes justify the giving of Baptism, at least with the condition that the requisite intention is implied in his general good will. Some theologians extend this rule even to include the conferring of Baptism on an unconscious dying person who is entirely unknown—who has neither expressed the wish to be baptized nor refused to receive this sacrament.

OPERATIONS WHICH ENDANGER OR DESTROY THE LIFE OF AN UNBORN CHILD

In the eyes of the Catholic Church, the human fetus, however immature, is regarded as a person, endowed with an immortal soul, and consequently possessing the same right to life that belongs to any other human being. Hence, it is never permitted to perform an operation whose direct purpose is to kill or eject a non-viable fetus. This principle holds good even when the continuation of pregnancy will entail the death of the mother; for it is never allowed to use

a bad means even to procure a good end. For example, if a pregnant woman is suffering from a heart condition, it would be unlawful, according to Catholic moral principles, to remove the child before it is viable, even though otherwise the woman is sure to die. This would be the direct killing of an innocent human being, a grave sin, which may never be committed, whatever good might result.

However, if the woman is suffering from a disease or ailment that is endangering her life, and an operation or medical treatment is necessary, the direct purpose of which is to cure this condition, the remedy may be applied even though, as another consequence, the child dies or is aborted. For there is a vast difference between *causing* a person's death and merely *permitting* it to happen for a sufficiently compensating reason. For example, if the pregnant woman is suffering from a cancer of the uterus in an acute stage, the diseased uterus may be removed, even though the death of the fetus will inevitably follow. In such a case the excision of the cancer is the direct effect of the operation; the removal and death of the child is only the indirect effect, permitted for a proportionately grave reason, the preservation of the mother's life.

To mention a few particular cases which are of common occurrence: It is not allowed to remove a non-viable fetus because a woman is suffering from hyperemesis gravidarum, eclampsia, advancing tuberculosis, diabetes, or kidney toxemias, because in all such cases the direct effect of the operation is the death of the unborn child, and the benefit to the mother is produced only indirectly. On the other hand, if in the course of pregnancy it becomes necessary to remove a woman's appendix or gall-bladder in order to save her life, this is permissible, even though the death of the fetus may

ensue, because in such cases the mother is directly benefited by the operation and the destruction of the fetal life is only an indirect consequence. The same principle would justify the giving of quinine to a pregnant woman, if it may be necessary for the preservation of her life, even though an abortion is likely to follow.⁴ It is well to note that in the event of a tubal pregnancy, according to a considerable number of theologians it is always lawful to remove the fallopian tube, even though the death of the fetus will inevitably result. Their argument is that in such circumstances an incipient but dangerous hemorrhage is actually taking place in the tube, so that the excision of the tube is justifiable to remove this pathological condition, although an indirect effect will be the destruction of the newly conceived infant.

The nurse is not required to perform operations, but she is called on to render services to the patients or the surgeons, and she should be acquainted with the moral principles governing the type of operations we have been considering, in order to decide on the lawfulness of her participation. If the operation itself is permitted according to the norms of Catholic moral teaching, her cooperation is perfectly lawful. But if the operation is a violation of God's law, as the Catholic Church and Catholic theologians interpret it, a further distinction is necessary, based on the nature and the proximity of her collaboration. Generally speaking, the nearer her services are to the actual operation and the more necessary they are for its performance, the graver is the reason required to justify her cooperation. For example, if she is merely deputed to prepare the operating table or to sterilize the surgical instruments, even though she knows that preparation is being made for a sinful operation, she could comply if otherwise she would be liable to lose her

position. But if she is told to hand the instruments to the surgeon as he works or to administer the anaesthetic to the patient, she must refuse, unless perhaps circumstances are such that she can foresee that a refusal will involve her definite debarment from the pursuit of her profession. Certainly, the loss of a few dollars or her dismissal from one particular case would not constitute a sufficient reason to justify such proximate participation in the act of direct murder. Here is a case in which the nurse who is a practical Catholic will fearlessly declare her principles—principles which are not merely enactments of the Catholic Church for Catholics, but which are the laws of God Himself, binding all human beings, whatever their creed.

It is hardly necessary to state that the Catholic nurse may never counsel or praise any operation or medical treatment that is immoral. Patients sometimes consult the nurse on questions of this nature, and are willing to follow her advice. There can be no compromise when God's law is at stake; the Catholic nurse must explain simply and clearly to Catholic and non-Catholic alike what her faith assures her is true. However, ordinarily the nurse is not bound to protest on her own initiative when she knows that the patient for whom she is caring is preparing for a forbidden operation, because the nurse's cooperation in such a case is quite remote. But even then, if she thinks that an admonition to the patient might be effective—particularly if the patient is a Catholic, amenable to the teachings of the Church—in charity she should deliver the admonition.

One other point should be mentioned in this connection, which is seemingly often neglected. If the nurse ever has the opportunity to baptize a fetus, no matter how immature—whether the operation that brought about its removal was

lawful or unlawful—she should administer Baptism, unless it is certain that life is no longer present. For, there are very good reasons to believe that a spiritual immortal soul is present from the first moment of conception, and certainly a human soul is present in the living fetus as soon as definite characteristics of a human body can be perceived.

BIRTH CONTROL

The most destructive of the tendencies opposed to family life—in fact, the most subversive movement in America at the present time, a movement that is working far more havoc to our nation than was effected in the recent world war—is the practice known as “birth control” or more delicately as “planned parenthood.” It may seem unnecessary to repeat the fact, and yet, because of the culpable or inculpable ignorance of many we must repeat it, that the Catholic Church, in condemning birth control, is not enunciating a Church law. Birth control is opposed to the law of God, that law, known as the natural law, engraven on the human mind for every intelligent and honest person to read. The Catholic Church can never change its stand on birth control. Birth control will be wrong until the end of time, no matter what population problems may arise, no matter what economic or hygienic arguments may be adduced in its support. And the reason, simply stated, is this: Birth control is an act whereby the primary purpose of a very important human faculty, the procreative faculty, is deliberately frustrated. For the Creator endowed men and women with sexual powers and inclinations, in the first place that they might beget offspring, and thus maintain and propagate the human race. Those who perform an act of contraception knowingly and willingly

prevent their sexual relations from producing the chief effect assigned to them by Almighty God. By carefully chosen means they succeed in procuring the privileges of the married state without undertaking its obligations. Even if the Catholic Church had never pronounced judgment on birth control, every reasonable and decent person should be able to see what a vile and loathsome practice it really is. And every individual act of contraception is a grave violation of the natural law, because any exception would be multiplied indefinitely, and thus immeasurable harm would result to the human race. The procreative act, which by its very nature is a life-offering act, cannot be defiled without incurring the guilt of a serious distortion of the wise plan of the Creator of the universe.

The vice of contraception inevitably degrades the character of those who are addicted to it. By its very nature it engenders selfishness, undue craving for pleasure, the tendency to shirk burdens and responsibilities. It creates the problem of the spoiled, self-willed child, for when a child is alone in a family or has only one brother or sister, he is inclined to have his own way to an inordinate degree. One of the best opportunities toward the development of generosity and self-reliance is afforded to the child of a large family, who must accustom himself to the "give and take" process which his surroundings necessarily impose on him.

The application of the principles we have been considering to the members of the nursing profession is quite evident. Under no circumstances may a nurse give any positive advice or encouragement toward the practice of birth control. To those who request information conducive toward this practice she must reply that she has no information to give. A nurse employed by a doctor who recommends contraceptives should

let him know that it is against her conscience to cooperate toward this violation of God's law by such actions as furnishing patients with contraceptive devices, even though she would be merely acting at his command.

An important point, in connection with the subject of birth control, should be emphasized for the benefit of nurses. In recent years there has been a tendency to exaggerate the difficulties and the risks of pregnancy and childbearing. Sometimes even medical men and nurses give their patients the impression that a woman has to endure a most painful and hazardous ordeal in bringing a child into the world. In consequence, many married women are so terrified that they will not dare to become mothers, and many others, after bearing one child, or at most two, are convinced that their health or even their lives would be endangered if they risked another pregnancy. Now, of course, it is not within the province of one who is not a member of the medical fraternity to dispute a doctor's judgment as to the risks involved in a particular case. However, any Christian with a genuine faith in the providence and the goodness of God knows full well that the process of pregnancy and childbirth is something quite in accordance with the laws of nature, something which takes place under the guidance and the protection of the Almighty; and it is both un-Christian and unscientific to regard it as a matter of extraordinary suffering and risk in the case of a woman of average health and strength. However, it is quite possible for a woman to develop a psychological complex that will induce an overwhelming fear, and thus the process will be rendered much more difficult and dangerous than it would be otherwise. And so, in their professional association with married women, nurses should avoid arousing baseless fears

which may be the occasion of contraceptive practices. Above all, they should not hesitate to propose religious considerations based on trust and confidence in God.

Sometimes the firm Catholic stand on contraception encounters this objection: "Why do you Catholics object to birth control, when your Church approves the so-called Rhythm system, the system of periodic continence? After all, there is no substantial difference between the use of Rhythm and the use of contraceptives." Now, this charge contains two errors—an error in regard to ethical principles and an error in regard to facts. The ethical error consists in the implication that when a couple wish to limit their offspring, it makes no difference whether they adopt as a means abstinence from marital relations at certain times or the practice of contraception. Now, there certainly is a vast difference between the *non-use* of a faculty and the *abuse* of that faculty. If a person intends to acquire a bank account of \$1,000, it certainly makes a great difference from the moral standpoint whether he attains his objective by thrift, by not spending his weekly wages, or by employing them to finance a crooked business deal. Secondly, as regards the statement of fact, it is certainly not true to say without any qualification that the Catholic Church approves the Rhythm system. Catholic theologians do indeed teach that if a couple have a good reason for not having more children, at least for a time, they may limit their conjugal relations to the sterile periods of the month. Such reasons would be grave economic stress or a genuine danger to the health or life of the wife in the event of pregnancy. But Catholic theologians also state quite clearly that if a married couple use the Rhythm method of avoiding parenthood for a considerable length of

time without a solid and serious reason they are guilty of a sin of selfishness, a violation of the duty they owe to society by the very fact that they have entered the state of marriage.⁵

PROFESSIONAL SECRECY

The nurse is bound by what is known as a committed secret toward her patients in all that falls under the scope of her professional relations with them. That means that she has implicitly entered into a contract with them, with the agreement that she will not divulge—apart from a very grave reason—anything she may learn about them in the exercise of her profession if such manifestation would be embarrassing or detrimental to them. For example, if a nurse finds out that a person's illness was caused by sinful excesses, she must consider this an inviolable secret. Again, if the sick person in delirium or under the influence of an anaesthetic utters remarks which would make him appear ridiculous or might even be harmful to his reputation, if spread about, the nurse may not tell others about them. The Catholic nurse in particular, with the definite principles of her Church to guide her, should be most exact in the matter of professional secrecy, even if those with whom she is working are careless in this respect. She must remember, too, that beyond what is strictly required of her as matters of professional secrecy, there are certain things which charity or the duty of natural secrecy forbids her to divulge. For example, if she is in attendance in a private home and notices the faults and foibles of the members of the family, or finds out that the financial condition of the family is not what it is reputed to be, her lips should be sealed on these matters, at least from a sense of decency and Christian charity.

THE IDEAL CATHOLIC NURSE

Such, in brief, are some of the religious and moral problems the Catholic nurse must be prepared to encounter, together with the solution of those problems according to Catholic principles. The Catholic nurse who conforms her conduct to the teachings of her religion consistently and exactly will find that her efficiency is not thereby lessened. On the contrary, the noble, spiritual outlook which dominates her professional activities will render her more conscientious in her tasks and will thus win the confidence of her patients—a factor so important toward success in the art of nursing. And this is the type of nurse that reflects the holiness of Catholicism and proclaims to the world the fundamental truth so frequently inculcated by the Catholic Church, that the welfare of both soul and body can and should be the object of our concern, even though the soul is the more important. For both soul and body are destined to share the everlasting glory of Christ's Kingdom, where anguish and sorrow shall be no more and where those who have labored out of love for our Blessed Lord to help their fellow creatures on whom the burden of pain has been laid will hear from His lips the consoling words: "Amen I say to you, as long as you did it for one of these, the least of my brethren, you did it for me."⁶

NOTES TO CHAPTER XI

¹ *Matt.* 16 : 26.

² J. Aertnys, C. SS. R. and C. Damen, C. SS. R., *Theologia Moralis* (Turin, 1939), II, n. 46, p. 36.

³ *Codex Juris Canonici*, Can. 746.

⁴ S. La Rochelle, O. M. I. and C. Fink, C. M., *Handbook of Medical Ethics* (Montreal, Westminster, Md., 1943), p. 180.

⁵ O. Griesse, *The "Rhythm" in Marriage and Christian Morality* (Westminster, Md.: Newman Bookshop, 1944), pp. 18 ff.

⁶ *Matt.* 25 : 40.

CHAPTER XII

THE CATHOLIC PUBLIC SCHOOL TEACHER

The work of educating youth has always been regarded as an important and dignified profession. St. John Chrysostom extols the office of teacher in these words: "What is greater than to rule souls, to mold the conduct of youth? I consider him who knows how to form the souls of the young more excellent than any painter or any sculptor."¹ This is especially true of the schoolteacher in charge of children during the formative period of their lives. Often the teacher exerts a greater influence on the development of the child's character than either the parents or the priest. Certainly, one who chooses the profession of a teacher undertakes a grave responsibility.

However, the teacher's influence and responsibility are exercised in full measure only when education is given in its integrity—that is, not only the training of the mind but also the guidance of the will, permeated with religious instruction and inspiration. Unfortunately, this type of education is not available in the public schools of the United States. In educational institutions maintained at public expense religious instruction is excluded from the regular curriculum. It is well to remember that until about 1840 religious training was a part of the program in our public schools. It was "the gradual rise of dissentient religious bodies in the colonies and States, due to the influx of emigrants and other causes that

brought about the important changes which led to the establishment of a ' non-sectarian ' system of schools." ²

The Catholic Church disapproves the system of education prevailing in the public schools of our country, not because of its positive factor, the type of instruction it provides, but because of its negative aspect, the exclusion of religion. The Church's attitude is clearly expressed in the Code of Canon Law, which forbids the attendance of Catholic children at " neutral " schools (schools in which there is no religious instruction), unless the Bishop deems a sufficient reason is present for tolerating such attendance.³ With the increase of Catholic schools throughout the United States in recent years and the greater availability of transportation facilities for school children, the need for tolerating the attendance of Catholic children at public schools is certainly less than it was a generation ago. We may even look forward hopefully to a time when a place in a Catholic school will be granted to every Catholic child in the land, at least as far as the elementary grades are concerned.

In view of this attitude of the Catholic Church toward the public school, the position of a Catholic as a teacher in such a school may seem anomalous. The question might be asked: " What justification has a Catholic in cooperating with a system of education which the Catholic Church condemns? " Our answer is that, since there is nothing *positively* wrong about our public school system of education (its objectional feature being *negative*, the lack of something which is necessary for the integrity of education), and since the situation would not be improved if Catholics withdrew from the work of public school education, it is perfectly lawful for Catholic men and women to teach in the public schools. Indeed, it is even desirable that Catholics undertake this profession,

provided they are intelligent and practical members of the Church. For, although religious instruction is excluded from the public school program, it is supposed to include some form of natural ethical training; and Catholics who know and practice the moral code of Catholicism are better equipped than teachers of other denominations to provide this phase of education.

THE CATHOLIC CHURCH AND THE PUBLIC SCHOOL

The Catholic public school teacher will from time to time be confronted with the problem as to the course she may or should follow consistently with her religious belief in some situation connected with her professional activities.⁴ Priests engaged in the parochial ministry, to whom teachers naturally refer such doubts, should be prepared to solve them in such wise that, on the one hand, there will be no infringement of any Catholic principle, and on the other hand, the teacher will not be burdened with restrictions and obligations not called for by the norms of Catholic theology. The purpose of this chapter is to consider some situations of this character that offer special difficulty and to propose a reasonable solution.

COLLABORATION OF THE CLERGY AND PUBLIC SCHOOL TEACHERS

Generally speaking, there is not sufficient collaboration between priests and Catholic schoolteachers in our country. Doubtless there are faults on both sides. Some priests seem to extend the Church's attitude of disapproving public schools to all who participate in public school education. They seem to take it for granted that the teacher is unortho-

dox in her educational ideas from the very fact that she teaches in a school from which religion is excluded. Of course this is quite illogical. A teacher may herself accept the true Catholic ideal of education, even though she is using in her daily work a system that falls far short of that ideal. Again, when a particularly brilliant or efficient Catholic teacher is in the public school and there is common talk that she is more successful in her work than the parochial schoolteachers, a pastor may yield to a slight feeling of resentment that she has not devoted herself to the cause of Catholic education.

On the other hand, some of the Catholic teachers in our public schools assume a strange attitude toward the priest and their fellow-Catholics. I am referring, not to those who bring discredit to the Church by their disregard of the norms of personal conduct expected of a Catholic, but rather to those who are above reproach in their practice of their religious duties, yet stay aloof from parish activities, such as sodalities and study clubs, and seldom meet the priest. Perhaps in some cases this attitude arises from a feeling of superiority over the less educated members of the parish with whom they would come in contact in such gatherings. Or, perhaps some entertain a latent fear that it will be a hindrance to promotion in their profession if they are outspoken in their loyalty to the Catholic Church. Again, there are some teachers who feel a certain resentment toward their pastor because they find in their classes problem children who have been rejected from the parochial school, either because of lack of talent or because of misconduct.⁵

It would be to the advantage of both sides if better relations were established between them. Certainly, the teacher should take an active part in the spiritual and social movements of her parish, both for her own benefit and for the welfare of

others. The pastor should welcome this collaboration, since her abilities and her standing in the community should prove a valuable asset. He too should manifest a spirit of friendliness toward those engaged in public school work within the boundaries of the parish. There is no reason why he should not occasionally visit the public school, especially if a considerable number of the children are Catholics. No reasonable person would interpret this as giving approval to non-religious education, and it should be beneficial to all concerned. It would be a source of encouragement to the Catholic teachers, and it would tend to break down the prejudice of the non-Catholics. It might help toward securing the cooperation of the school authorities in the matter of getting the children to Mass on holydays, to afternoon weekday instructions, etc. One of the outstanding members of our hierarchy at the present time has the custom of visiting the public schools in his episcopal city, and of entering the classrooms, at the invitation of the principal, to address the children.

THE TEACHER AS AN APOSTLE

The Catholic public school teacher should realize that she has opportunities of doing much for the benefit of religion. This does not mean that she is expected to exert any direct influence to induce the non-Catholic pupils to become Catholics. However dearly she may love her religion and however ardently she may desire to convince others of its truth, she should abstain from taking the initiative in bringing the arguments for Catholicism to the notice of those under her care. Such a procedure would be a violation of the agreement (or at least tacit understanding) with which she accepted her position, and would probably result in detriment

to the common good of religion far exceeding the good that might be done for individual souls. However, if a Catholic teacher is asked by a pupil to explain some point of Catholic teaching, she should give the information clearly and adequately. But if she is requested to give more extended instruction, it would generally be advisable to have the case referred to a priest.

At times, the textbook used in class may contain statements relative to the Catholic Church that are false or misleading, particularly in the history class. The Catholic teacher should not hesitate to bring out the truth on such occasions. It would be deplorable if a Catholic teacher allowed a calumny on the Church to pass unrefuted because she feared for the security of her position or she dreaded being regarded as a "bigoted Catholic."

Neither should the Catholic teacher hesitate to give the solution taught by her religion to problems of a moral or social nature which may be discussed in class. Particularly in high school discussions on social or civic topics she may be expected to make a statement on such matters as divorce, euthanasia, birth control, the rights of the individual in relation to the State, the mutual obligations of employer and employee, the right of the parent to educate children as contrasted to the right of the civil authorities, etc. The doctrine of the Catholic Church on such subjects is simply the teaching of the moral law, binding all human beings, and the Catholic teacher is in no way infringing on her agreement not to impose specifically Catholic tenets on the class when she proposes the doctrine taught by the Church and Catholic scholars.

It may happen that a class manual presents without any qualification the evolutionary explanation of the origin of

the human race as a demonstrated fact. The Catholic teacher in commenting on this subject will make the proper distinctions. She will point out that the human soul, being a spiritual substance, could not have originated by the evolution of any lower form of life. The body of man could have been the product of a development from some species of animal, to which the Creator gave a spiritual soul at some definite moment. However, even the evolution of man's body is a mere hypothesis which has not been confirmed by solid scientific arguments. A teacher who passes this judgment on the evolutionary theory cannot be accused of teaching religious doctrine, for her presentation of the case is simply a sound scientific and philosophic conclusion.

To be able to explain and to defend the truth in such cases as have been cited, the Catholic schoolteacher must necessarily possess an accurate and fairly extensive knowledge of the relevant theological, philosophical, and historical data. She may have had the advantage of a good training in a Catholic college; but if she did not enjoy this privilege she should devote herself to the private study of the subjects on which she is likely to be questioned. Especially she should be familiar with the standard objections to Catholicism, and for this purpose such works as *The Question Box* by Fr. Bertrand Conway, C. S. P., and *Radio Replies* by Frs. Rumble and Carty are valuable sources of information. It should be noted that inquiries or objections to the Catholic religion may come not only from the pupils but also from her fellow teachers, and she should be able to give these latter a reasonable and adequate answer. If she encounters a difficulty that surpasses her own abilities, she should discuss it with a priest and receive the proper explanation.

The Catholic teacher should regard herself as responsible

in some measure for the religious training of the Catholic children under her supervision. She may not fulfill this duty in class time, but she should take advantage of opportunities outside this period to give advice or admonition, when it is called for, if she deems it feasible. In 1929 the Bishops of England enunciated officially a principle that has an important bearing on the relation of the Catholic teacher toward Catholic children—the principle that the teacher is the delegate of the parents rather than of the government. The Bishops asserted: “A teacher never is and never can be a civil servant, and should never regard himself or allow himself to be so regarded. Whatever authority he may possess to teach and control children, and to claim their respect and obedience, comes to him from God through the parents and not through the State, except in so far as the State is acting on behalf of the parents.”⁶ The Catholic teacher can reasonably presume that Catholic parents depute to her some responsibility over the spiritual training of their children, since this is an essential factor of Catholic education.

Accordingly, the Catholic teacher should take some action if she discovers or suspects that a Catholic child is missing Mass or failing otherwise in his or her religious duties. There may be reason to believe that a boy or girl is sadly in need of religious instruction. The teacher need not give the admonition or instruction herself, but she should bring the case to the attention of a priest or the child's parents. Sometimes a teacher can give prudent advice to a pupil as to the selection of a college, or even as to the choice of a state of life. There are nuns in our country today who owe their first inspiration to the religious life to a public school teacher who perceived in them the signs of a divine call. A Catholic teacher can exercise a genuine apostolate, if she earnestly

seeks opportunities, without laying herself open to the charge of "sectarian propaganda." In fact, there are some instances of non-Catholic teachers who take a deep interest in the spiritual welfare of the Catholic children entrusted to their charge, even to the extent of encouraging likely candidates for the priesthood.

The "released time" program, now prevailing in some sections, whereby an hour of the regular class period is devoted weekly to religious instruction according to the particular denominational choice of the parents should receive wholehearted cooperation from Catholic teachers. Charity and zeal should prompt them to lend their assistance to their pastors if it is requested. On the other hand, they should realize that "released time" is no adequate substitute for a complete Catholic education, since it presents religious training as a mere adjunct of the curriculum rather than as the vital principle of every phase of education. But it is certainly better than the complete disregard of religious instruction, and will contribute in some small measure toward rectifying the crass defect in the American system of public education.

LESSONS OF VIRTUE

As was stated above, the American system of education, though it excludes religious instruction, supposes some manner of ethical training. The teacher may not inculcate the supernatural virtues, nor expound the ideals of moral perfection as preached by Christ and interpreted by the Catholic Church. But she can avail herself of favorable opportunities to point out the beauty and the nobility of such natural virtues as truthfulness, justice, kindness, temperance. Indeed, there would seem to be no infringement

on the non-religious character of our public education if the teacher made reference to God, as Creator, and man's obligation to adore and serve Him. So general an assertion of a truth that is demonstrable by natural reason would certainly not be classified as "sectarianism," the bugaboo of those who excluded religious teaching from our public schools.

The Catholic teacher must ever bear in mind that her own example can be a most effective inspiration to her pupils. If she desires to measure up to the ideals of her profession according to the standards of the Catholic Church, she must ever be patient, kind, truthful, and above all, just. This last virtue is especially important, for children have keen appreciation of justice, and conversely they deeply resent any manifestation of undue favoritism or prejudice on the part of their preceptors. This virtue must be manifest in the treatment, not only of individuals but also of racial groups. In a school where white and colored children attend classes together, the teacher must be most careful not to exhibit any spirit of discrimination. She should also, in fact, when occasion offers, condemn all forms of racism, pointing out the unreasonableness of race prejudice, and extolling the basic Christian principle that all men are equal in the eyes of Almighty God. To discriminate against a child because of race or color would not only be a violation of genuine Americanism but would also be a sin against God's law, as proclaimed by the Catholic Church. The same principles apply to prejudice or favoritism in reference to different national or religious groups. And it should be noted that the Catholic teacher who conscientiously practices the virtues proper to the classroom is actually winning the esteem of her pupils for the Catholic Church, since they will judge her conduct in connection with its religious background.

AVOIDANCE OF RELIGIOUS INDIFFERENTISM

As was just said, the Catholic teacher must accord the non-Catholic pupils the same treatment she gives to those of her own faith. But this practice of distributive justice must not lapse into religious indifferentism. When so many of those charged with the care of young folks in our country today are striving to eliminate Catholic exclusiveness, eagerly seeking occasions of proclaiming that it makes little or no difference what particular form of religion a person practices, Catholics must be especially emphatic in upholding the principle that there is only one true religion, imposed by God on all mankind, and that is Catholicism. Neither in the classroom nor in her associations with teachers of other creeds may the Catholic teacher use expressions savoring of indifferentism. She may, indeed, explain and uphold the American system granting equal rights to all religions, but in lauding this system she should make it clear that she is limiting her praise to our own country, because of particular conditions prevailing here, and that she has no intention of condemning other lands in which a different procedure prevails. She must not speak in such wise as to give the impression that all forms of religious belief possess a natural right to exist and to propagate. Only the true religion possesses such a natural right.

Sometimes a Catholic teacher is expected to attend religious services in a non-Catholic church. The occasion may be the wedding or funeral of one of her fellow teachers, and in such a case she would be permitted to attend. In some sections of our country, where Catholics are few in number, the graduation exercises may be held in a Protestant church in connection with a service, and if conditions are such that

that teachers and pupils are practically forced to be present, they could attend the exercises. However, Catholics should be fully aware that they may not participate actively in any form of public non-Catholic religious worship. Their participation, when it is justified—as in the instance just mentioned—must be limited to mere presence or passive assistance.

By a strange inconsistency, despite the principle that our public schools are nonreligious, in some parts of our country custom or regulation calls for the reading of the Bible at the opening of class each morning. The Catholic teacher may find her classroom provided with a Protestant Bible, and she naturally wonders how she should act. Archbishop Kenrick, more than a century ago, forbade without any qualification the use of the Protestant scriptures by a Catholic teacher.⁷ Fr. Konings, writing some thirty years later, ventured the opinion that if a Catholic teacher would otherwise have to suffer some great hardship (presumably the loss of her position or exclusion from promotion) she would be permitted to read from the Protestant Bible passages conformable to the Catholic version provided she would not thus give the Catholic children the impression that she regards the non-Catholic text as authoritative.⁸ Considering conditions as they exist in our country today, I believe that the Catholic teacher, in the situation presented, should bring her own Bible to class and read it to the pupils. I do not think that any punitive measures would be attempted against her, even in pronouncedly non-Catholic communities. However, in the event that there would be such a manifestation of bigotry, she could follow the opinion rendered by Fr. Konings.

The recitation of the Our Father is also customary in some schools. Naturally the Protestant children add the

phrase: "For thine is the kingdom, etc." These words should not be recited by the Catholic pupils or the Catholic teacher, although she could start the prayer and continue through the phrase: "Deliver us from evil." It is true, the added words contain no expression of heresy, and actually are employed by the Catholics of the Oriental rites in reciting the Lord's Prayer. But in practice these words have taken on a Protestant connotation, so that their use would constitute an implicit approval of heresy. On the other hand, the Catholic teacher need have no scruples about beginning the prayer for the Protestant pupils, even though they are going to add the unauthorized phrase. Nowadays, when parents so generally neglect their obligation of teaching their children to pray, it is certainly better for them to become accustomed to the recitation of this formula in school than to grow up with the habit of not praying at all.

SEX EDUCATION

The subject of sex education in the public schools has been discussed widely in recent years. Many entirely misunderstand the attitude of the Catholic Church toward this matter, and accuse Catholic priests and educators of holding that it is the proper thing to allow children to grow up entirely ignorant of sex matters. Nothing could be further from the truth. The authorities of the Catholic Church hold that proper sex training is an essential feature of a complete education. But they believe that it must be imparted in the right manner; otherwise it would do more harm than good. Since sex education is something personal and intimate, it should be given normally by the parents of the child, according to his individual needs and his physical or intellectual

development. Since the needs and the development of children in this matter are by no means concomitant with their age level and school grade, it is impossible to designate a particular time in the curriculum when a group instruction is expedient. For some members of the class this would be too early; for some it would be too late. Furthermore, sex instruction should always be accompanied by incentives to the practice of chastity; and incentives to the angelic virtue, to be most effective, must be connected with definite religious instruction, such as could not be given in our public schools. Unfortunately, too, many of the public school teachers of our country do not uphold the high ideals of chastity preached by the Catholic Church. For these reasons bishops and priests are opposed to group sex instruction in our public schools.

However, when the curriculum of a public school requires sex instruction, the Catholic teacher should be better fitted to give it than are those of other denominations. Her explanations should be dignified and chaste, and not too detailed. Above all, she should emphasize the great difference between the instinctive use of the sex faculties by irrational animals and their properly regulated use by human beings, possessing intelligence and free will. She should point out very clearly that the lawful use of the sexual power is restricted to married persons, and should suggest motives for purity, at least on the score of the nobility and the strength of character manifested by those who practice this virtue. Since many children do not receive adequate training in sex matters from their parents, the teacher should not hesitate to give more personal instruction privately to any girl who may take her into her confidence. Such an occasion might afford the opportunity of warning an unsuspecting child against danger-

ous associations. In similar circumstances a male teacher could give suitable instruction to a boy who seeks his counsel. Needless to say, great prudence should be employed in cases of this nature lest the well-meaning action of the teacher be interpreted as a manifestation of prurience or even perversion.

LOYALTY TO GOD

In certain sections of our country a Catholic finds it difficult to obtain a position in the public schools because of the spirit of bigotry and hatred for the Catholic Church. This should not deter Catholics from aspiring to such positions and winning appointments by outstanding merit. However, they must remember that no compromise in matters of faith is ever permissible, no matter how great the advantage to be gained thereby. And when a Catholic does succeed in obtaining the desired position in such localities, she should make a special effort to break down the prejudice by proving her pedagogical ability and her moral worth. On the other hand, a Catholic teacher, frustrated in her attempts at promotion, must not be too ready to attribute her failure to bigotry. Doubtless there are Catholic teachers who feel they have been wronged, whereas in reality their lack of advancement was due to their failure to check and to meet eligibility requirements, to prepare thoroughly for examinations, and to work competently and industriously in the classroom.

The priest who has a group of public school teachers in his parish has a splendid opportunity of aiding them both personally and professionally. He can provide them with literature that will enlarge their knowledge of religion. He can organize them into a study club that will meet regularly to discuss problems pertinent to their work in school. Above

all he can and should inspire them to conduct themselves as loyal and apostolic members of the Catholic Church so that they inspire others to seek and to find the divine truth proclaimed for the entire human race by Him who is the first Teacher of all mankind.

NOTES TO CHAPTER XII

¹ J. Chrysostom, "Homilia 60 in Matt.," *Opera Omnia* (Paris, 1842), VII, 584.

² Burns, *The Catholic School System in the United States*.

³ *Codex Juris Canonici*, Can. 1374.

⁴ In the course of this chapter we shall refer to the Catholic school teacher in the feminine gender, since the majority of our public school teachers are women.

⁵ To attempt a solution of this vexing problem viewed in all its angles is beyond the scope of this work. Much could be said on both sides. Certainly, the pastor has no obligation to keep in his school children who would be detrimental to the intellectual or moral development of the others. At the same time, it is tragic when a Catholic school expels a child who is particularly in need of Catholic training. And one can certainly sympathize with the public school teacher called to educate a group of such outcasts.

⁶ H. Davis, S. J., *Moral and Pastoral Theology* (New York, 1938), II, 88.

⁷ F. Kenrick, *Theologia Moralis* (Philadelphia, 1842), II, Tr. 13, n. 62, p. 290.

⁸ A. Konings, C. SS. R., *Theologia Moralis* (Boston, 1874), n. 437, p. 190.

CHAPTER XIII

THE CATHOLIC IN SOCIAL SERVICE WORK

Organized social work has developed rapidly throughout the United States in recent years. In 1940 it was estimated that the number of professional social workers in our country was between 75,000 and 100,000.¹ The sphere of activity assigned to social work has also broadened with the passing of the years. Not only the care of the poor and the sick but also such interests as child placing, child guidance, mental hygiene, domestic adjustments, vocational rehabilitation, recreational programs, probation and parole, etc., are now considered normal activities for the social worker.² And no one can doubt that the future will provide even more ample opportunity for all these forms of social service.

NEED OF SUPERNATURAL SPIRIT

The science of social work, as taught outside the Catholic Church, has become, generally speaking, purely naturalistic, if not materialistic. It is concerned only with the bodily welfare and the temporal happiness of those in need of assistance. The "modern" sociologist does not professedly aim at attacking religious belief and practice. On the contrary, he may acknowledge that religion is a valuable aid to social service. But he describes religion as a merely subjective attitude, originating in the magic and the fears of primitive people, the result of man's attempt to find an explanation to

the problems of life that will leave him with a sense of security.³

Catholics engaged in social work must be on their guard against this insidious spirit, so completely alien to the idea of social service as visualized by the Catholic Church. The Catholic concept is tersely propounded by Dr. Lucian Lauerman, director of the National Catholic School of Social Service, Washington, D. C., in these words:

The distinctive element in Catholic social work may be termed supernaturalism. The believer in the supernatural holds that the final end of all conduct is the vision of God, face to face in eternity, and that all men are called to be adopted children of God. Thus, human life acquires a significance and the neighbor assumes a dignity, superior to that found in the order of nature only. . . . This theory impels the supreme type of service for a neighbor. Catholic social work may thus be defined as understanding of and service for others in the corporal and spiritual spheres with a supernatural motive and aspiration.⁴

Even organized Catholic charity is not free from the danger of conforming in some measure to the standards and ideals of the secular social service that is becoming so influential a factor in modern American life. Against this danger, Dr. Furfey, head of the Department of Sociology at The Catholic University of America, delivers this vigorous warning:

It is hard to escape the conclusion that the great tradition of Catholic charity has been somewhat diluted by secular influences in our modernized Catholic social agencies. It has not been an unmixed blessing that the paid lay social worker has supplanted the nun in much of our work among the poor. . . . There is room for a type of Catholic charitable activity which would revolt frankly against the secular tradition and yet be prepared to accept whatever is praiseworthy in the latest modern methods. It is high time for the Catholic

charities of the United States to issue their declaration of independence. As long as we try to keep up even an external appearance of conformity to secular social work we shall find it difficult to return to the spirit of the Gospels. Our principles and the principles of secular philanthropy are worlds apart; it follows that our organizations and our methods must be strikingly different also.⁵

If even organized Catholic charity finds it difficult to adhere consistently to Catholic principles, the individual Catholic working in a secular social agency will have still greater difficulty in conforming her professional activities to the teachings of the Church.⁶ Some might suggest, as a solution of this problem, that Catholics keep out of agencies of this kind and accept positions only in Catholic organizations. But this solution, while simplifying the matter for Catholic social workers, fails to consider other factors. Among those who receive public assistance are many Catholics, and it is to their benefit that they be advised and aided by coreligionists, intelligent and staunch in the practice of their faith. Furthermore, a leaven of Catholicism in secular social service may help to preserve it from straying too far from at least the basic principles of natural morality.

But the Catholic social worker should have a thorough grasp of Catholic moral principles pertinent to her profession and the ability to apply them to concrete situations. Needless to say, a priest to whom the spiritual care of such workers has been assigned must have even a deeper knowledge of these principles, so that he may guide and direct these women in the complicated ethical problems which at times they may encounter. The purpose of this article is to propound some of these problems and to suggest a solution. Much of the material for the cases to be discussed is found in a doctoral dissertation by Miss Dorothy Abts, of the National Catholic

School of Social Service, entitled *Some Religious and Ethical Problems in the Practice of Catholic Social Workers*.⁷

THE PROBLEM OF CONTRACEPTION

Doubtless the most common and the most vexing problem that must be faced by the Catholic employed in a secular social agency is the irreconcilable opposition between her Church's teaching on contraception and the ideas commonly accepted by non-Catholic social workers. There is brought to the attention of the agency the case of a married couple who are shiftless and irresponsible, and yet are rapidly increasing the number of their children. The remedy unhesitatingly chosen by the average social agency under secular auspices is contraception; the couple must be taught effective birth control methods. Of course, the Catholic worker realizes that such a measure is absolutely immoral, a grave transgression of God's law. In the circumstances described she might suggest the practice of periodic continence, or the "Rhythm." In the event that someone else is inducing the couple to practice contraception—for example, a doctor or a nurse—she can be silent if she feels that any advice to the contrary would be futile. In certain circumstances she might even recommend to the couple that they refrain from having more children, without making mention of the means to obtain this objective.⁸ But under no circumstances, even though her position is at stake, may she suggest contraceptive practices, either explicitly or implicitly—for example, by giving them literature explaining the practice of contraception. And the worker should realize that this rule must regulate her dealings with all clients, whatever their religious beliefs, because the prohibition of contraception belongs to the natural law which is binding on all human beings.

STERILIZATION

In many of our states the sterilization of those who are judged mentally deficient is a practice sanctioned or even imposed by law.⁹ Here again the social worker encounters a prohibition of the natural law, admitting no exception. Eugenic sterilization—and that is the type that is legalized in the United States, even in those cases in which criminal acts are the occasion of this measure—is a grave violation of a person's bodily integrity, which neither an individual nor civil society may ever lawfully perpetrate.¹⁰ Hence, as in the case of contraception, the social worker may never recommend or positively approve this type of sterilizing operation.

The problem is most likely to come to the social worker in the form of a question in cooperation. In the study made by Miss Abts twenty-five cases were classified under the heading of "family problems," and the majority of these were concerned with sterilization, particularly in those instances where the worker was expected to cooperate in providing institutional care.

The usual problem is this: A child is mentally defective, so that institutional commitment seems called for. Yet, the worker knows that if the child is sent to the only institution available, he will be sterilized. In such circumstances may she take measures to have the child committed? The answer is to be sought in the norms laid down by theologians concerning material cooperation. If proper care can be given the child at home without too great difficulty and expense for the family, he should be kept out of the institution. On the other hand, if home care would be very burdensome

for all concerned—for example, if the patient must be constantly watched lest he harm himself or others—the social worker could have him committed to the institution, even though sterilization will be the inevitable consequence. This is simply an application of the principle of the double effect, whereby an evil effect following from a lawful action can be permitted, provided a proportionately beneficial effect, equally immediate, is procured.

A more difficult case arises when one who is an inmate of an institution will be released and restored to his family only on condition that he submits to sterilization. What advice could a Catholic worker give to the members of the family (including perhaps the inmate himself) if their consent to the operation is sought as a necessary condition to his release? There is a principle admitted by a considerable number of Catholic theologians which might be applicable in such a case. According to this principle, a person may mutilate himself or consent to be mutilated at the unjust command of an oppressor if otherwise he would be killed or subject to some grave physical evil, such as perpetual incarceration.¹¹ Since permanent confinement in an institution is almost equivalent to life imprisonment, it would seem that consent to the sterilization operation could be given in the case presented. It seems hardly necessary to add that every other means of securing the patient's release without his undergoing the operation—for example, an appeal to the courts—must first be attempted if it offers any hope of success. It is well to note that if the inmate himself possesses the use of reason, his consent to this procedure is required, the consent of his parents or guardians not being sufficient from the standpoint of divine law.¹²

DIVORCE

The advice of the social worker may be sought by a woman whose husband is drinking or is otherwise obnoxious in the home. The harassed wife is contemplating a divorce or a legal separation. Ordinarily the worker should recommend that the couple remain together, even though conditions are difficult. The use of the divorce court as an easy way of solving marital troubles is one of the grave evils of modern America. Even Catholics, though they may not contemplate remarriage, are too much inclined to adopt this procedure. The Catholic social worker should tell those who seek her counsel in this matter that marriage is intended to last until death, despite hardships and misunderstandings and failings, and that the separation of husband and wife should not be resorted to until every other means of adjustment has been tried and found inadequate. In the event that divorce is the only solution, the worker should admonish her clients, whatever their religion, not to attempt remarriage as long as both are living. Moreover, the Catholic social worker should know that the Third Council of Baltimore forbids Catholics to approach the civil court for the purpose of procuring a legal separation without first consulting the ecclesiastical authorities.¹³

THE UNMARRIED COUPLE

The Catholic social worker may be assigned to the case of a separated couple whom she knows to be invalidly married (and perhaps a previous marriage and divorce on the part of one or both makes it impossible to rectify this present union), and the secular agency which employs the worker expects her to urge the two to live together again for

the sake of the children. In such a case, to urge the pair to resume their married life would be an exhortation to lead a life of sin. At most, it would seem that she could ask them to provide properly for the children, saying nothing about cohabitation. Theoretically she could give the advice that they dwell under the same roof as brother and sister, but in practice this would usually amount to persuading them to place themselves in a proximate occasion of sin, and hence she could rarely resort to it. For, even though her position is at stake, the social worker may not give advice that will directly induce her clients to violate the law of God.

Similarly, when the social worker finds a couple living together unmarried and incapable of entering marriage because of some impediment of divine law (but permitted to marry by civil law) she may not suggest a civil marriage, even as a mere formality to obtain civil effects. Indeed in the United States, where the Third Council of Baltimore inflicts a censure of excommunication on a Catholic who attempts remarriage after a civil divorce,¹⁴ a social worker might so concur in the commission of this sin by her counsel as to incur herself the same penalty.¹⁵

THE RELIGIOUS PROBLEM

The social worker in a secular agency not infrequently encounters moral problems bearing on cooperation or participation in non-Catholic religious rites. Miss Abts presents the case of a worker who was seeking recreational facilities for an underprivileged Catholic child, but could find none save those afforded by a girls' scout troop affiliated with a Protestant church. The girls were required to attend Protestant services. The only course open to a Catholic

worker in such a situation was to refuse to enroll the child in the troop because of the danger to the child's faith and the communication in non-Catholic worship which membership involved.

The Catholic social worker, though engaged by a non-sectarian agency, may not exercise her activities independently of the church and the local clergy. When a family of careless Catholics is brought to her attention, she should notify the pastor; the same is true when she discovers a marriage that needs rectification, if there is any hope of success. When a Catholic is in danger of death, the worker should see that a priest is summoned if this duty is neglected by the members of the family. In charity the worker should inform non-Catholics, when they are dying, of the seriousness of their condition so that they may have the opportunity of preparing for entrance into eternity. When an unbaptized child is dying, the Catholic social worker should, if possible, bestow on the little one the precious boon of the sacrament of Baptism.

Sometimes friction arises between the social worker and the local pastor. To obviate such unpleasantness as far as possible, each of the two should be mindful of the rights and the competence of the other. On the one hand, the worker must remember that anything pertaining directly to the spiritual needs or welfare of a Catholic is under the jurisdiction of the Church. She may indeed urge Catholic parents to have the baby baptized, to send their children to church, etc. But such matters as recommending that a child be transferred from the parochial to the public school, advising a wife to refuse her husband his marital privileges because of economic conditions, deciding whether or not a child should be sent to Confirmation instructions, etc., are problems for

the priest to settle. On the other hand, the priest should remember that the social worker has received a specialized training and that in matters pertaining directly to social service she is probably more competent than he is. One of the complaints of social workers against charity work by priests—and it is frequently justified—is that their donations are badly timed and in lump sums, so that when the beneficiaries are people incapable of handling budgetary problems it is a case of “throwing good money into a well.”

Msgr. Lawrence J. Shehan, formerly Director of Charities in Washington, D. C. (now Auxiliary Bishop), makes these remarks on the problem in question:

The calling in of a professional worker often presents difficulties. There may not be complete harmony of views between the priest and the worker. For instance, the priest may have made up his mind that the children of a family ought to be placed in an institution. The worker, impressed with the necessity of keeping a family together whenever possible, may deem it unwise to break up the family. In such cases, I think the priest ought to be willing to discuss the case with the worker. Often he may have information on the subject that would be impossible for a worker to obtain, and his judgment ought to be valuable to the worker. On the other hand, he ought to be willing to hear the worker's point of view and consider it on its merits. Certainly, a frank discussion of cases ought to have much to contribute toward the effectiveness of social work.¹⁶

THE ADOPTED CHILD

The custom of adopting children is quite common nowadays; and, on the whole, little ones who have lost their parents or whose parents cannot take care of them fare better in this system than if they were brought up in an institution. However, one of the problems connected with adoption, in the case of the child placed in the adoptive home from

infancy, is whether or not he should be told in his early years that those whom he calls father and mother are not actually his parents. The more acceptable plan would seem to be to inform him as soon as possible; otherwise the knowledge may come from some extrinsic source and have disastrous effects. This is the view of a social worker who made a special study of the matter:

Those who have thought through the whole subject of adoption know that every adopted child should be told he is a "chosen child" as soon as possible. . . . He will then accept the fact that he is adopted, conscious that the relationship implies love, tenderness, pride and security. At some time or other he will probably boast of the fact that he was adopted and feel very sorry for other children whose parents did not so carefully seek and lovingly select them.¹⁷

Not so simple is the case of the child born out of wedlock and now adopted by a couple who are giving him a full measure of love and affection. Should he be told that he is of illegitimate birth when he is old enough to understand what this means? Some child-placing agencies obviate this difficulty by withholding the background of a child when they commit it to adoption. However, if the matter is known to the adoptive parents, it would seem best for them to inform the child when he is sufficiently mature. In the first place, it is impossible for a person knowing himself to be adopted and yet entirely ignorant as to his parentage not to suspect that he is illegitimate; and the uncertainty would usually be worse than definite knowledge. Secondly, when a person is preparing to marry—and still more, if he wishes to enter the priesthood or the religious life—definite information concerning his origin should be available.

The social worker herself is usually not the one to reveal such data to an adopted child, but she should have some

definite idea on the subject in order to advise adoptive parents as to the most feasible plan.

PROFESSIONAL SECRECY

The obligation of the social worker to observe professional secrecy has been thoroughly discussed in recent years by Fr. Walter McGuinn, S. J., and Fr. Robert Regan, O. S. A.¹⁸ They apply to this particular profession the commonly accepted principles of Catholic theology and conclude that persons committed to the care of a social worker have a right in strict justice to professional secrecy and confidence in those matters that constitute their business with the worker. Thus, it would be sinful on her part to divulge the straitened financial condition of a family or the strained relations between husband and wife when these facts are not matters of public knowledge. Again, if a wife had illicit relations with another man while her husband was absent, the social worker who learns of it in pursuance of her profession must keep it a strict secret.

However, at times the duty of professional secrecy will yield to the obligation to procure some great good or to prevent some grave evil. Thus, if a family is receiving public relief on false pretenses, claiming to be impoverished while in reality it has abundant resources, the social worker who discovers the fraud would be justified in reporting the truth to the public authorities if the family itself refuses to discontinue the relief voluntarily. Again, if a social worker discovers that a woman has contracted a social disease in the absence of her husband and will give no assurance that she will warn him on his return, the worker herself would be permitted to inform him of his wife's condition. It should be

remembered, too, that the professional secrecy of the social worker permits her to report to the agency all that is required for the proper management of the case. In other words, the professional secret of the social worker is by its very nature a group secret.

The social worker should be familiar with the teachings of the Church, particularly the social principles expounded by the Sovereign Pontiffs. A recent study of the extent of knowledge of Catholic truth possessed by Catholic social workers—a study conducted by Dr. Lucian Lauerman¹⁹—reveals a deplorable ignorance of many of the most fundamental teachings of the Catholic Church among a great number in this group. Both the workers themselves and priests who have such workers under their pastoral care should strive to remedy this condition.

Finally, the social worker employed by a secular agency should remember that, even though the spirit animating the agency is merely natural philanthropy, she can make her participation an exercise of genuine supernatural charity. In her daily tasks of relieving the poor and the afflicted, of restoring harmony and peace to broken homes, of providing care for the young, she is imitating Him Who of old went about doing good in Judaea and Galilee. But to imitate Him perfectly she must be animated primarily with a loving solicitude for the souls of those committed to her care, regarding it as her first task to preserve them in divine grace or to restore them to the friendship of God and to guide them on the way to eternal life.

NOTES TO CHAPTER XIII

¹ A. Fink, *The Field of Social Work* (New York: H. Holt, 1942), p. iv.

² *Ibid.*, p. 3.

³ W. Ogburn and M. Nimkoff, *Sociology* (Boston: Houghton Mifflin, 1940), p. 659.

⁴ L. Lauerman, "Catholic Social Work," *Social Year Book* 1943 (New York: Russell Sage Foundation, 1943), p. 92.

⁵ P. Furfey, *The Mystery of Iniquity* (Milwaukee: Bruce, 1944), pp. 112 ff.

⁶ Throughout this chapter we refer to the social worker in the feminine gender, since the majority of social workers are women.

⁷ D. Abts, *Some Religious and Ethical Problems in the Practice of Catholic Social Workers* (Washington: The Catholic University of America, 1945).

⁸ This could be done when she has every reason to believe that the couple would not abuse their marriage rights if this advice were given. Again, if the agency threatens to discharge her unless she recommends the limitation of the family, she might make this general recommendation, even though the couple may in consequence adopt contraceptive practices. In such a case they are responsible for the malicious interpretation of her advice.

⁹ Cf. J. Lehan, *The Morality of American Civil Legislation Concerning Eugenical Sterilization* (Washington: The Catholic University of America, 1944), pp. 13 ff.

¹⁰ Pius XI, *Casti Connubii*, *Acta Apostolicae Sedis*, 22 (1930), p. 565.

¹¹ A. Vermeersch, S. J., *Theologia Moralis* (Bruges, 1928), II, n. 323, pp. 287-88.

¹² L. Wouters, C. SS. R., *Manuale Theologiae Moralis* (Bruges, 1932), I, n. 526, p. 360.

¹³ *Acta et Decreta Concilii Plenarii Baltimorensis Tertii* (Baltimore, 1886), n. 126, pp. 64-65.

¹⁴ *Ibid.*, n. 124, pp. 63-64. Cf. J. Barrett, *A Comparative Study of the Councils of Baltimore and the Code of Canon Law* (Washington: The Catholic University of America, 1932), p. 134.

¹⁵ *Codex Juris Canonici*, Can. 2209, 3; Can. 2231.

¹⁶ L. Shehan, "The Priest and Social Case Work," *The Catholic Charities Review*, 13 (1929), p. 181.

¹⁷ E. Gallagher, *The Adopted Child* (New York, 1936), p. 116.

¹⁸ R. Regan, O. S. A., *Professional Secrecy in the Light of Moral Principles* (Washington, 1943), pp. 179-203. Cf. W. McGuinn, S. J., *The Professional Secret in Social Work* (Boston, 1942).

¹⁹ L. Lauerman, *Catholic Education for Social Work* (Washington: The Catholic University of America, 1945).

CHAPTER XIV

SOCIAL JUSTICE AND CHARITY

In the preceding chapters we have studied the duties which, according to Catholic ethical principles, are incumbent on those who occupy various positions of trust and authority—the public officeholder, the lawyer, the doctor, etc. Emphasis was laid on the special obligation of Catholics to be faithful to these duties because of their special privilege of possessing the one true faith to guide them and the many spiritual helps provided by the Catholic Church to strengthen its members in the performance of good and the avoidance of evil.

THE NEED OF SOCIAL JUSTICE

At first sight, some of the occupations and offices that have been studied may seem quite unrelated to one another. What has the judge in common with the nurse, the military leader with the social worker? Why should these apparently dissociated professions be classified under one heading and made the subject of one study? The answer is found in the Catholic doctrine on social justice, the virtue which was described briefly in Chapter VI.¹ Social justice is that species of the cardinal virtue of justice which prompts one to render to society what is due it. It is the virtue which helps one to realize that he may not live for himself alone, that as a member of society he must contribute toward the common welfare. He must be willing to subordinate his personal likes

and dislikes, his inclinations and conveniences to the needs of others. Every form of society demands the exercise of this virtue from its members—the family, the club, the business firm, the state, the Church. For no society can be strong and united and enduring unless its component parts, the individuals that compose it, wholeheartedly collaborate toward the attainment of the common goal. The self-centered person who eagerly seizes all the advantages that society offers and reluctantly gives only the minimum of service in return is a parasite, draining the vigor and effectiveness of the social body without heed to the needs of the other members.

In this book we have considered the special tasks which society expects from certain of its members who occupy posts of honor and responsibility. However divergent may be the duties of these individuals in their particular aspects, they have one point in common—they are duties demanded by social justice. Consequently, those who hold the various offices in question must be impressed with their grave moral obligation to perform their tasks faithfully and conscientiously. They must not regard their official position primarily from the standpoint of the emoluments and privileges it confers. Their first thought should be that they pledged themselves to serve their fellow men. By voluntarily assuming the place they occupy, they agreed to sacrifice their personal comfort to the common good, and to dedicate their time and talents toward promoting the well-being and happiness of the other members of society. Those who govern society have the first obligation to practice social justice.²

No one can fail to see the necessity of social justice at the present day. In the modern world, even among those especially called on to practice this virtue, there is a deplorable spirit of indifference to the rights of others, an immoder-

ate craving to get from society as much as possible and to give in return as little as possible. And we see the sad results of this unfortunate tendency in the strife and discontent between the classes, the uncertain economic conditions, the barefaced hypocrisy and dishonesty of politicians, the gross selfishness of so many in posts of influence, which today harass our land, despite the fact that there are available all the natural means for providing our citizens with comfort, and security and peace. It must be evident, in the face of this paradox, that an important factor is lacking in the scheme of modern life. That factor is the virtue of social justice.

THE NEED OF CHARITY

There is, however, another virtue that must supplement social justice, namely, the virtue of Christian charity. By charity we do not mean philanthropy, which is love for our fellow men because of their merely human perfections. Charity is based on the divine perfections which reside, or can reside, in every human soul. It is love for our neighbor—and every human being is our neighbor—because of his likeness to God. It is this type of love to which Christ referred when He laid down, as the second of His great commandments, next in importance to the love of God: "Thou shalt love thy neighbor as thyself."⁸ This virtue, too, must be cultivated by all in posts of authority if they wish to perform faithfully their official duties. Like social justice, charity is much neglected in the modern world; and it is only by a widespread revival of these two virtues that we can hope for an effective remedy for the ills that afflict society. As Pope Pius XI expressed it: "The means of saving the world of today from the lamentable ruin into which amoral liberal-

ism has plunged us are neither the class struggle nor terror, nor yet the autocratic abuse of State power, but rather the infusion of social justice and the sentiment of Christian love into the social-economic order.”⁴

The teachings of the Catholic Church provide many motives for the practice of both social justice and charity. It is a Catholic doctrine that all men are descended from Adam and Eve, who were created by God to be the parents of the whole human race. The realization that all our fellow creatures are actually united to us by the bond of blood should urge us to grant all men their rights in justice and to bestow on them a measure of genuine affection. Racial, social, and national distinctions become less important in the light of this truth. The fact that a fellow creature differs from us in color, culture, and language is offset by the fact that he is of the same family as ourselves.

THE DOCTRINE OF THE MYSTICAL BODY

An even more sublime doctrine of the Catholic faith furnishes a stimulus to the practice of social justice and charity—the doctrine of the Mystical Body. With St. Paul, the Catholic Church teaches that all men are destined to be members of a world-wide supernatural organization having Christ as its Head, an organization in which the members are so intimately united with one another and with the Head by spiritual bonds that it bears a striking resemblance to the living human body.⁵ This glorious organization is the Catholic Church, to be members of which all men are summoned by the world's Redeemer. Anyone who is sincerely impressed by this marvelous truth would no more think of injuring a fellow man by injustice or unkindness than he

would be inclined to inflict an injury on his own body. In all his associations with others he will never forget that he is dealing with those who, either actually or potentially, are united by supernatural bonds to Jesus Christ, the Incarnate God. Furthermore, the Catholic Church proclaims the inherent dignity of every human being. This dignity is based on the fact that every human soul bears the image of God, and is destined to enjoy the eternal happiness of heaven in the world to come. It is a most effective incentive to stimulate in us respect and love for our fellow men, to help us remember that, however different they may be from us from a worldly standpoint, however repulsive and disagreeable they may appear, they will be our intimate companions in the kingdom of heaven forever if we and they attain to the goal for which we were created.

With these sublime truths to motivate him, the Catholic placed in a post of authority and influence over others will never stoop to dishonesty and unfairness. On the contrary, he will regard it as a privilege to assist his fellow men; he will expend his best efforts in serving them with a genuine feeling of respect. His attitude toward them will be regulated not by external appearances, which may be offensive and annoying, but by the value which God places on each individual soul. And God evaluates every soul as worthy of an infinite and eternal love.

The Catholic in public life will not content himself with performing only those services which his office strictly demands with a view to the temporal welfare of those with whom he deals. His Catholic faith will prompt him to concern himself with their eternal happiness also. Whether he debates the passing of legislative measures or administers justice, whether he labors to obtain legal redress for clients

or toils to bring health of body to patients, his ultimate objective will be to help those for whom he is working to attain to the goal of eternal life.

In the sad, troubled world of today there is great need of Catholic leaders who will be imbued with this supernatural outlook, and will apply it in practice to their particular fields of activity. The fact that many of those to whom they render service are entirely earthly in their ambitions and manifest no aspirations toward higher objectives should not discourage these Catholic lay apostles. Our Divine Saviour Himself, in the course of His earthly mission to bring the light of grace to His fellow men, found many who were concerned only with earthly goods. Frequently He employed His miraculous power to bestow temporal blessings on the needy, giving sight to the blind, curing lepers of their loathsome malady, feeding the hungry. His main purpose in working these wonders was to bring health of soul to those who needed spiritual help more than bodily assistance. Yet, doubtless among those who received miraculous favors from His hands there were some who gladly accepted His ministrations to their bodies but rejected the graces He was lavishing on their souls. Nevertheless, Christ persevered in His lofty purpose; He toiled on with undiminished energy, rejoicing if only a few could be induced to pursue the higher way of life to which He was trying to win all men.

So too, the followers of Christ, the members of His one true Church, when they imitate Him in striving to bring their fellow men to perceive and to follow the way that leads to eternal life, must also imitate His courage. They must not be disheartened if only a few will be influenced, but rather they must be consoled by the assurance that He will acknowledge as done to Himself what is done to aid their fellow men,

when it is actuated by a supernatural motive: "I was hungry and you gave me to eat; I was thirsty and you gave me to drink; I was a stranger and you took me in. . . . Amen I say to you, as long as you did it for one of these, the least of my brethren, you did it for me." ⁶

NOTES TO CHAPTER XIV

¹ Cf. p. 66.

² St. Thomas, *Summa Theologica*, II-II, q. 58, a. 6.

³ *Mark*, 12: 31.

⁴ Pius VI, "Divini Redemptoris," *Acta Apostolicae Sedis*, XXXIX (1937), p. 80.

⁵ *Col.*, 1: 18.

⁶ *Matt.*, 25: 40.

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